

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 72

AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-5-2-10, AS AMENDED BY P.L.69-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. "Chute" means the area or pathway that extends fifty (50) feet in length, measured from the ~~position where the poll worker closest to the door or~~ entrance to the polls. ~~is stationed by the inspector.~~ If the property line of the polling place is less than fifty (50) feet from the door or entrance to the polling place, the chute is measured from the exterior door or entrance to the polling place to one-half (1/2) the distance to the property line of the polling place **nearest to the entrance to the polls**. Whenever there are two (2) or more doors or entrances to the polls, the inspector of the precinct shall designate one (1) door or entrance as the door for voters to enter for the purpose of voting.

SECTION 2. IC 3-5-2-23.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23.2. (a) **Except as provided in subsection (b), "expedited basis" refers to the processing of:**

- (1) **a voter registration application;**
- (2) **a cancellation of a voter registration application;**
- (3) **a transfer of a voter registration application; or**
- (4) **another document that creates or amends the voter registration record of an individual;**



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not later than forty-eight (48) hours after the document is received by a county voter registration office or an agency required under IC 3-7 to transmit voter registration documents to a county voter registration office.

(b) If a voter registration application or other document listed in subsection (a) includes a partial Social Security number that must be submitted to the Commissioner of Social Security for verification under 42 U.S.C. 405(r), "expedited basis" refers to the processing of the application or document not later than forty-eight (48) hours after the bureau of motor vehicles commission receives verification from the Commissioner regarding the partial Social Security number.

SECTION 3. IC 3-5-2-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 48. "State office" refers to governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, superintendent of public instruction, attorney general, justice of the supreme court, judge of the court of appeals, **and** judge of the tax court. ~~and clerk of the supreme court.~~

SECTION 4. IC 3-5-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. All expenses for a municipal primary election or municipal election that is conducted by a county election board shall be allowed by the county executive and shall be paid out of the general fund of the county, without any appropriation being required. The county auditor shall certify the amount of that allowance to the fiscal officer of the municipality **not later than thirty (30) days after the municipal primary or municipal election.** The fiscal body of the municipality shall make the necessary appropriation to reimburse the county for the expense of the primary election or election **not later than December 31 of the year in which the municipal election is conducted.**

SECTION 5. IC 3-5-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) **Except as provided in subsection (b),** during the period that begins ninety (90) days before a municipal primary election and continues until the day after the following municipal election, all expenses of the primary election and election that cannot be chargeable directly to any municipality shall be apportioned as follows:

- (1) ~~One-fourth (1/4)~~ **Twenty-five percent (25%)** to the county.
- (2) ~~Three-fourths (3/4)~~ **Seventy-five percent (75%)** to the municipalities in the county holding the municipal primary election and municipal election.

(b) **The apportionment made under subsection (a) does not**

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apply to a town that has entered into an agreement with the county under IC 3-10-7-4 to pay the county a fixed amount for the expenses described in subsection (a).

SECTION 6. IC 3-5-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) **Except as provided in subsection (c),** whenever more than one (1) municipality in a county conducts a municipal primary election, ~~and municipal election, the three-fourths (3/4)~~ **seventy-five percent (75%)** of expenses that cannot be chargeable directly to any particular municipality under section 8 of this chapter shall be apportioned to each municipality in the same ratio that the number of voters who cast a ballot in the municipality at the municipal **primary** election bears to the total number of voters who cast a ballot in all of the municipalities in the county at that municipal **primary** election.

(b) **Except as provided in subsection (c), whenever more than one (1) municipality in a county conducts a municipal election, the seventy-five percent (75%) of expenses that are not chargeable directly to any particular municipality under section 8 of this chapter must be apportioned to each municipality in the same ratio that the number of voters who cast a ballot in the municipality at the municipal election bears to the total number of voters who cast a ballot in all of the municipalities in the county that conducted a municipal election.**

(c) **The apportionment made under subsection (a) does not apply to a town that has entered into an agreement with the county under IC 3-10-7-4 to pay the county a fixed amount for the expenses described in subsection (a).**

SECTION 7. IC 3-5-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The county election board shall, on a form prescribed by ~~the state board of accounts, under IC 3-6-4.1-14,~~ itemize all the expenses of any election for which a municipality is required to reimburse the county.

SECTION 8. IC 3-5-7-7, AS ADDED BY P.L.202-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A registered voter of the election district a candidate seeks to represent may file a sworn statement with the ~~commission election division~~ or a county election board under IC 3-8-1-2 if a candidate uses on the ballot a designation not permitted by section 5 of this chapter.

(b) A complaint filed under this section must contain the following information:

(1) The legal name of the candidate who has used a designation

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not permitted by section 5 of this chapter.

(2) The designation the candidate has used that is not permitted under section 5 of this chapter.

(c) If the commission or county election board finds that the candidate used a designation not permitted by section 5 of this chapter, the candidate is considered to have withdrawn the candidate's candidacy.

SECTION 9. IC 3-6-6-7, AS AMENDED BY P.L.199-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) An otherwise qualified person is eligible to serve as a precinct election officer unless any of the following apply:

(1) The person is unable to read, write, and speak the English language.

(2) The person has any property bet or wagered on the result of the election.

(3) The person is a candidate to be voted for at the election **in the precinct**, except as an unopposed candidate for a precinct committeeman or state convention delegate.

(4) The person is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election in that precinct. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. This subdivision does not disqualify a person from serving as a precinct election officer if the candidate to whom the person is related is an unopposed candidate. **For purposes of this subdivision, an "unopposed candidate" includes an individual whose nomination to an office at a primary election is unopposed by any other candidate within the same political party.**

(5) The person did not attend training required by section 40 of this chapter.

(b) In addition to the requirements of subsection (a), a person is not eligible to serve as an inspector if the person is the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

SECTION 10. IC 3-6-6-13, AS AMENDED BY P.L.209-2003, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A county election board shall fill a vacancy in a precinct election office before the hour set for the opening

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of the polls, upon the nomination of the appropriate county chairman.

(b) This subsection applies to a precinct election office when, at noon, fourteen (14) days before election day, the appropriate county chairman has made no nomination for the office. The county election board, by ~~unanimous majority~~ vote of the ~~entire membership of the~~ board, may fill the office by appointing an individual who would be eligible to serve in the office if nominated by the county chairman.

(c) If a vacancy is filled by the county election board under subsection (b), the board may, by unanimous vote of the entire membership of the board, fill the office by appointing a student:

- (1) enrolled at an institution of higher education (including a community college); and
- (2) who is a registered voter of the county;

to serve as a nonpartisan precinct election officer.

SECTION 11. IC 3-6-6-23, AS AMENDED BY P.L.126-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The oath prescribed for a precinct election officer must be signed before a person authorized to administer oaths and contain the following information:

I do solemnly swear (or affirm) the following:

- (1) I will support the Constitution of the United States and the Constitution of the State of Indiana.
- (2) I will faithfully and impartially discharge the duties of inspector (or judge, poll clerk, assistant poll clerk, or sheriff) of this precinct under the law.
- (3) I will not knowingly permit any person to vote who is not qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.
- (4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and, if required by law, am a qualified voter of that county.
- (5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.
- (6) I am able to read, write, and speak the English language.
- (7) I have no property bet or wagered on the result of this election.
- (8) I am not a candidate to be voted for at this election **in this precinct**, except as an unopposed candidate for a political party office.

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(9) If I am serving as an inspector, I am not the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

(10) I am not related to any person to be voted for at this election **in this precinct** as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of that person, unless that person is an unopposed candidate.

(11) I was trained as required by IC 3-6-6-40.

SECTION 12. IC 3-6-6-38, AS ADDED BY P.L.126-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) As used in this section, "omitted precinct election officer" refers to a precinct election officer that a precinct is not required to have by a resolution adopted under this section.

(b) Notwithstanding other provisions of this title, a county election board may adopt a resolution to provide that specified precincts or all precincts of the county are not required to have any or all of the following precinct election officers:

- (1) ~~Sheriff.~~ **Sheriffs.**
- (2) Poll clerks.

(c) A resolution adopted under this section must be adopted by unanimous vote of the entire membership of the board.

(d) A resolution adopted under this section must state the following:

- (1) The precincts to which the resolution applies.
- (2) For each precinct identified in the resolution, which precinct election officers are omitted precinct election officers.
- (3) For each precinct identified in the resolution, which precinct election officers will perform the duties required by this title of the omitted precinct election officers.

(e) Notwithstanding any other law, the precinct election officer specified in a resolution adopted under this section shall perform the duties of the omitted precinct election officers as stated in the resolution.

(f) A resolution adopted under this section expires December 31 after the resolution is adopted.

SECTION 13. IC 3-6-6-40, AS ADDED BY P.L.66-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ **(a)** The county election board shall conduct a training and

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educational meeting for precinct election officers.

~~(c)~~ **(b)** The board shall require inspectors ~~and judges~~ to attend the meeting and may require other precinct election officers to attend the meeting.

~~(d)~~ **(c)** The meeting required under this section must include information:

- (1) relating to making polling places and voting systems accessible to elderly voters and disabled voters; and
- (2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

~~(e)~~ **(d)** The meeting required by this section must be held not later than the day before election day.

(e) If an individual:

- (1) is appointed as a precinct election officer after the training and educational meeting conducted under this section; or**
- (2) demonstrates to the county election board that the individual was unable to attend the meeting due to good cause;**

the county election board may authorize the individual to serve as a precinct election officer if the county election board determines that there is insufficient time to conduct the training required by this section.

SECTION 14. IC 3-6-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If:

- (1) twenty-six percent (26%) or more of all candidates of a political party who are candidates for:

(A) nomination to elected offices at a county **primary election** (or municipal primary election **within the municipality in which the municipal primary is to be conducted**), not including candidates for delegates to the state convention or candidates for precinct committeemen; or

(B) precinct committeemen at an election for precinct committeemen, whose names are certified to the county election board as candidates to be voted for at the primary election for precinct committeemen; or

- (2) any candidate or group of candidates for a school board office; desire to have watchers at the polls in any precinct of the county or municipality, they shall sign a written statement indicating their desire to name watchers.

(b) If the candidates signing the statement are candidates for nomination at a county primary election or for election as precinct

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committeemen or to a school board office, the written statement shall be filed with the circuit court clerk of the county where the candidates reside.

(c) If the candidates signing the statement are candidates for nomination at a municipal primary election, the written statement shall be filed with the circuit court clerk of the county that contains the greatest percentage of the population of the election district.

SECTION 15. IC 3-6-9-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. A watcher appointed under this chapter is entitled to do the following:**

- (1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.**
- (2) Inspect the paper ballot boxes, voting machines, ballot card voting system, or electronic voting system before votes have been cast.**
- (3) Inspect the work being done by any precinct election officer.**
- (4) Enter, leave, and reenter the polls at any time on election day.**
- (5) Witness the calling and recording of the votes, the reading of the totals from the voting machines, and any other proceedings of the precinct election officers in the performance of official duties.**
- (6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-2.5-4, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:**
 - (A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate, if the watcher is appointed under section 1(a)(1) of this chapter; or**
 - (B) the names of all candidates at a school board election and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(2) of this chapter.**
- (7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.**
- (8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.**

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(9) Call upon the election sheriffs to make arrests.

SECTION 16. IC 3-6-10-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. A watcher appointed under this chapter is entitled to do the following:**

- (1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.**
- (2) Inspect the paper ballot boxes, voting machines, ballot card voting system, or electronic voting system before votes have been cast.**
- (3) Inspect the work being done by any precinct election officer.**
- (4) Enter, leave, and reenter the polls at any time on election day.**
- (5) Witness the calling and recording of the votes, the reading of the totals from the voting machines, and any other proceedings of the precinct election officers in the performance of official duties.**
- (6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-2.5-4, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board providing the names of all candidates and the number of votes cast for each candidate and the votes cast for or against a public question.**
- (7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.**
- (8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.**

SECTION 17. IC 3-7-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) The circuit court clerk or board of registration members shall, following the cancellation of voter registrations as provided by the voter list maintenance program under this article, file an affidavit under affirmation with the ~~county auditor~~ election division.**

(b) The affidavit must be on a form prescribed by the commission and must state that the clerk or board has:

- (1) conducted the voter list maintenance program under this article; and**
- (2) canceled the registrations required under the voter list**

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maintenance program.

SECTION 18. IC 3-7-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Except as provided in subsection (b), the definitions in IC 9-13-2 apply to this chapter.**

(b) A reference to the "commission" in this chapter is a reference to the Indiana election commission unless otherwise stated.

SECTION 19. IC 3-7-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As provided in 42 U.S.C. 1973gg-3(c)(1), the **bureau of motor vehicles** commission shall include a voter registration application form as a part of the application for a driver's license prescribed under IC 9-24.

SECTION 20. IC 3-7-14-9, AS AMENDED BY HEA 1360-2004, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a) An employee of the bureau of motor vehicles commission who provides an individual with a driver's license or identification card application shall do the following:**

- (1) Inform each individual who applies for a driver's license or an identification card that the information the individual provides on the individual's application will be used to register the individual to vote unless:
 - (A) the individual is not eligible to vote;
 - (B) the individual declines to register to vote or fails to complete the voter registration part of the application; or
 - (C) the individual answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).
- (2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application if requested to do so by the individual.
- (3) Check the completed voter registration form for legibility and completeness.
- (4) Deliver the completed registration form to the license branch manager (or the employee designated by the manager to be responsible for voter registration services) for transmittal to the appropriate circuit court clerk or board of registration.
- (5) Inform the individual that the individual will receive a mailing from the county voter registration office of the county where the individual resides concerning the disposition of the voter registration application.
- (6) Inform each individual who submits a change of address for a driver's license or identification card that the information serves

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as notice of a change of address for voter registration unless the applicant states in writing on the form that the change of address is not for voter registration purposes.

(b) The bureau of motor vehicles commission shall transmit a voter registration form completed after December 31, 2005, to the election division for transmittal to the appropriate county voter registration office in accordance with IC 3-7-26.3.

SECTION 21. IC 3-7-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If an individual is registering to vote after the twenty-ninth day before the date that a primary, general, municipal, or special election is scheduled in the precinct where the voter resides, the employee of the **bureau of motor vehicles** commission who provides an individual with a driver's license or an identification card application shall do the following:

- (1) Inform the individual that license branch registration will not permit the individual to vote in the next election.
- (2) Inform the individual of other procedures the individual may follow to vote in the next election.

SECTION 22. IC 3-7-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Whenever an applicant completes a voter registration application under section 4 of this chapter, the **bureau of motor vehicles** commission shall provide the applicant with a written acknowledgment that the applicant has completed a voter registration application at a license branch. The acknowledgment:

- (1) may be:
 - (A) a detachable part; **or**
 - (B) **after December 31, 2005, an electronic version;**
 of the registration form prescribed under section 4 of this chapter; and
- (2) must set forth the name and residential address of the applicant and the date that the application was completed.

SECTION 23. IC 3-7-14-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) An applicant who completes a voter registration application under section 4 of this chapter is not required to submit the application to a ~~circuit court clerk or board of county voter registration member~~ **office**.

(b) The **bureau of motor vehicles** commission shall forward the voter registration part of the application to a ~~circuit court clerk or board of county voter registration office~~ not later than five (5) days after the date of acceptance and as provided in IC 9-24-2.5 and 42 U.S.C. 1973gg-3(c)(2)(E). **This subsection expires January 1, 2006.**

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(c) This subsection applies after December 31, 2005. The bureau of motor vehicles commission shall forward the voter registration part of the application to the election division for transmittal to the appropriate county voter registration office on an expedited basis in accordance with IC 3-7-26.3, IC 9-24-2.5 and 42 U.S.C. 1973gg-3(c)(2)(E).

SECTION 24. IC 3-7-14-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. Voter registration information received or maintained by the **bureau of motor vehicles** commission under this chapter is confidential and may be used only for voter registration purposes as provided in this article, 42 U.S.C. 1973gg-3(b), and 42 U.S.C. 1973gg-6(a)(6).

SECTION 25. IC 3-7-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. Except as provided in section 15 of this chapter, an application under section 4 of this chapter authorizes a ~~circuit court clerk or board of county voter registration office~~ to update the voter registration record of the applicant:

(1) under 42 U.S.C. 1973gg-3(a)(2) unless the applicant fails to sign the voter registration application; or

(2) after December 31, 2005, in a manner authorized under IC 3-7-26.3.

SECTION 26. IC 3-7-14-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. As provided in 42 U.S.C. 1973gg-3(d), a circuit court clerk or board of registration may update the address in the voter registration of an applicant, unless the applicant indicates on an application to obtain or renew a motor vehicle driver's license (or any other change of address form submitted to the clerk or board by the **bureau of motor vehicles** commission) that the change of address of the applicant is not for voter registration purposes.

SECTION 27. IC 3-7-26-2, AS AMENDED BY P.L.209-2003, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The election division shall develop and maintain a statewide voter registration file.

~~(b) Subject to section 20 of this chapter, not later than January 1, 2004, the election division shall maintain the statewide voter registration file so that the file is accessible by the election division and county voter registration offices through a secure connection over the Internet.~~

~~(c)~~ **(b)** The statewide voter registration file must comply with the standards and requirements described in 42 U.S.C. 15483.

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SECTION 28. IC 3-7-26-8, AS AMENDED BY P.L.209-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Until a county has the capability to transmit the information over the Internet as required under subsection (b), the information required by section 7 of this chapter shall be provided on magnetic media or other machine readable form to the election division.

(b) ~~Subject to section 20 of this chapter, not later than January 1, 2004,~~ **After a county has the capability to transmit information in accordance with subsection (a),** a county voter registration office shall transmit the information required by section 7 of this chapter to the election division over the Internet, in a manner and using a method prescribed by the election division, through a secure connection. ~~to the statewide voter registration file.~~

(c) The commission shall prescribe a format to ensure the standardization and readability of the data provided under subsection (a) or (b).

SECTION 29. IC 3-7-26.3-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 22. The computerized list must contain at least the following information for each voter:**

- (1) The voter's voting history for at least the previous ten (10) years, if available, including the political party ballot requested by the voter at any primary election during the period.**
- (2) The source of the voter's registration application.**
- (3) A listing of all previous addresses at which the voter was registered to vote during at least the previous ten (10) years, if available.**
- (4) Information concerning the documentation submitted by the voter to comply with the requirements of HAVA.**
- (5) Documentation of all changes to the registration made by the voter.**
- (6) Documentation concerning all notices sent to the voter by the county voter registration office.**

SECTION 30. IC 3-7-26.3-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 23. The computerized list must include absentee ballot management features that do the following:**

- (1) Manage absentee ballots based on the type, eligibility, and status of the absentee voter.**
- (2) Permit the printing of absentee labels by group or date, or**

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by individual for use by a voter voting in person at the county election board office.

(3) Permit the documentation of the date on which each absentee ballot is issued and returned.

(4) Permit the printing of absentee ballot applications with voter registration information for the absentee ballot applicant.

SECTION 31. IC 3-7-26.3-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 24. The computerized list must permit a circuit court clerk to transmit reports or statements to the election division under IC 3-6-5, this article, or IC 3-12-5.**

SECTION 32. IC 3-7-26.3-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. The computerized list must include election and poll worker management features such as whether poll workers served only part of an election day.**

SECTION 33. IC 3-7-26.3-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. The computerized list must provide fully synchronized backup and recovery with a well defined disaster recovery plan.**

SECTION 34. IC 3-7-26.3-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 27. The computerized list must include signature digitizing features that have the ability to accept and maintain a scanned image of the voter's signature.**

SECTION 35. IC 3-7-26.3-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 28. The computerized list must include street file management features that do the following:**

- (1) Include an integral street file with automatic assignment to election districts and jurisdictions based on residence address location.
- (2) Permit changing street names throughout a county or for specific areas within a county.
- (3) Permit interfacing with geographic information systems.
- (4) Permit comprehensive changes to reflect changes in legislative district or precinct boundary lines.
- (5) Permit the accommodation of multiple place names within a single ZIP code area.
- (6) Permit the tracking and management of data concerning

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polling place locations.

SECTION 36. IC 3-7-26.3-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 29. The computerized list must include voter registration management features that do the following:**

- (1) Automatically assign voter identification numbers in accordance with this title.
- (2) Calculate the number of registered voters by precinct or any election district.
- (3) Permit expedited web based inquiries concerning polling place locations.
- (4) Track and report all voter list maintenance transactions performed within the system.
- (5) Permit tracking regarding the political party ballot requested by voters voting in a primary.
- (6) Generate a variety of reports on paper, compact disc, or floppy disc format, such as walking lists, call lists, lists of voters by precinct, lists of voters by name, date of birth, or date of registration, and lists of voters by other household data.
- (7) Identify voters who are currently less than eighteen (18) years of age.
- (8) Permit electronic processing of voter registration information received as files from other state and federal agencies.
- (9) Provide flexible query functions for management and statistical reports, including the ability of the secretary of state or a co-director of the election division to view individual voter registration records.
- (10) Contain full audit controls and management reports to track and manage the work of county voter registration office employees, including the ability of the secretary of state or the co-directors of the election division to determine whether a county voter registration office is performing voter list maintenance functions in the manner required by IC 3-7.

SECTION 37. IC 3-7-26.3-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 30. The computerized list must include a help desk support feature, staffed by individuals who can provide assistance to county voter registration offices regarding the proper operation of the system.**

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SECTION 38. IC 3-7-26.3-31 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 31. The computerized list must include features permitting the secretary of state or a co-director of the election division to include other features determined by the secretary of state and the co-directors of the election division.**

SECTION 39. IC 3-7-26.3-32 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 32. (a) This section applies to a county with a county voter registration office described in IC 3-5-2-16.2(1) or IC 3-5-2-16.2(2).**

(b) The computerized list must permit a county election board to view data concerning voters of the county in order to do the following:

- (1) Administer absentee balloting.**
- (2) Determine whether an individual who wishes to file as a candidate is a voter of the county.**

SECTION 40. IC 3-7-27-20, AS AMENDED BY P.L.209-2003, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) This section applies to a county that maintains voter registration information in a computerized system.**

(b) The county voter registration office shall prepare an entry in the computerized system that accurately reflects the information set forth in the original affidavit of registration and, if the applicant was required to provide documentation under IC 3-7-33-4.5, whether the required documentation has been provided.

(c) If the documentation required under IC 3-7-33-4.5 has been provided, the entry must include the following:

- (1) The date the documentation was filed with the county voter registration office.**
- (2) Whether the documentation was filed with the county voter registration office:**
 - (A) in the form of summary information on a poll list documented in accordance with IC 3-11-8-25** by a precinct election board after the person voted in person at the polling place;
 - (B) by the county election board after the person applied to cast an absentee ballot; or**
 - (C) by the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office.**
- (3) A brief description of the type of documentation provided or**

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an optically scanned image of the document. The election division shall provide each county voter registration office with a suggested coding system for identifying the types of documentation.

(d) However, the county voter registration office is only required to enter a voter's voting history for the previous ten (10) years if that history is available.

(e) The county voter registration office is not required to prepare a duplicate paper copy of a registration properly entered into the computerized system.

(f) The computerized system must be able to generate lists of voters organized alphabetically and by precinct of residence.

(g) This section expires January 1, 2006.

SECTION 41. IC 3-7-27-20.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 20.2. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall prepare an entry in the computerized system indicating:

- (1) whether the applicant was required to provide documentation under IC 3-7-33-4.5; and**
- (2) if so, whether the required documentation has been provided.**

(c) If the documentation required under IC 3-7-33-4.5 has been provided, the entry must include the following:

- (1) The date the documentation was filed with the county voter registration office.**
- (2) Whether the documentation was filed with the county voter registration office by:**
 - (A) a precinct election board after the person voted in person at the polling place;**
 - (B) the county election board after the person applied to cast an absentee ballot; or**
 - (C) the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office.**

(3) A brief description of the type of documentation provided. The election division shall provide each county voter registration office with a suggested coding system for identifying the types of documentation.

SECTION 42. IC 3-7-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As provided in

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42 U.S.C. 1973gg-3(c), the fact that an applicant declined to register at a license branch **or** at a voter registration agency **or by mail** is confidential.

SECTION 43. IC 3-7-32-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A registration application must be signed:

- (1) in indelible ink or indelible pencil; **or**
- (2) after December 31, 2005, with an electronic signature in a manner authorized under IC 3-7-26.3 if submitted to a license branch under IC 3-7-14.**

SECTION 44. IC 3-7-32-4, AS AMENDED BY P.L.126-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A voter may not submit a registration application by electronic transmission except as provided in IC 3-11-4 **or, after December 31, 2005, IC 3-7-26.3.**

SECTION 45. IC 3-7-33-4, AS AMENDED BY P.L.209-2003, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to a voter registration application submitted on a registration by mail form under IC 3-7-22.

(b) Except as provided in subsection (c), and as provided in 42 U.S.C. 1973gg-6(a)(1), an eligible applicant whose application is postmarked not later than twenty-nine (29) days before the election shall be registered to vote in the election.

(c) If a postmark on a registration by mail form is missing or illegible, an eligible applicant shall be registered to vote in the election if the form is received by the county voter registration office not later than ~~twenty-four (24) days~~ **the Monday following the close of the registration period** before the election.

SECTION 46. IC 3-7-33-4.5, AS ADDED BY P.L.209-2003, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ **(a)** Except as provided in subsection ~~(c)~~, **(b)**, this section applies to an individual who:

- (1) submits an application to register to vote by mail under IC 3-7-22; and
- (2) has not previously voted in:
 - (A) a general election in Indiana (or a special election for federal office in Indiana); or
 - (B) a general election (or a special election for federal office) in the county where the individual has submitted an

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application under this chapter if a statewide voter registration system is not operational in accordance with the requirements of IC 3-7-26 and 42 U.S.C. 15483 on the date the application is received by the county voter registration office.

(c) (b) This section does not apply to an individual who complies with the requirements in any of the following:

- (1) The individual submits an application to register to vote by mail under this chapter and includes with that mailing a copy of:
 - (A) a current and valid photo identification; or
 - (B) a current utility bill, bank statement, government check, paycheck, or government document;

that shows the name and **residence** address of the voter **stated on the voter registration application**.

- (2) The individual submits an application to register to vote by mail under this chapter that includes the individual's:

- (A) Indiana driver's license number; or
- (B) last four (4) digits of the individual's Social Security number;

and the county voter registration office or election division matches the information submitted by the applicant with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application.

- (3) The individual is an absent uniformed services voter or overseas voter.

- (4) The individual is entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual.

- (5) The individual is entitled to vote other than in person under any other federal law.

(d) (c) When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is subject to the requirements to provide additional documentation under this section and 42 U.S.C. 15483.

(e) (d) As required by 42 U.S.C. 15483, a county voter registration office shall administer the requirements of this section in a uniform and nondiscriminatory manner.

(f) (e) If the county voter registration office determines that the applicant:

- (1) is not required to submit additional documentation under this

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section; or

(2) has provided the documentation required under this section; the county voter registration office shall process the application in accordance with section 5 of this chapter.

~~(g)~~ (f) If the county voter registration office determines that the applicant is required to submit additional documentation under this section and 42 U.S.C. 15483, the office shall process the application under section 5 of this chapter and, if the applicant is otherwise eligible to vote, add the information concerning this documentation to the voter's computerized registration entry under IC 3-7-27-20(c).

~~(h)~~ (g) The county voter registration office shall remove the notation described in subsection ~~(g)~~ (f) after the voter votes in an election for a federal office.

SECTION 47. IC 3-7-36-14, AS ADDED BY P.L.126-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section applies to a person described in subsection (b) who applies to register to vote during the period:

- (1) beginning on the date that the certified list of voters is prepared under IC 3-7-29-1; and
- (2) ending at noon election day.

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in IC 3-7-13-10 and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

- (1) Showing either of the following to the ~~circuit court clerk~~ **county voter registration office**:

(A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

- (i) the voter;
- (ii) the voter's spouse; or
- (iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

- (i) the voter;
- (ii) the voter's spouse; or
- (iii) the individual of whom the voter is a dependent.

- (2) Completing a registration affidavit.

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(c) A voter who registers under this section may vote at the upcoming election only by absentee ballot at the office of the circuit court clerk at the time the voter registers under this section or at any time after the voter registers under this section and before noon on election day. A voter who wants to vote under this subsection must do both of the following:

- (1) Complete an application for an absentee ballot.
- (2) Sign an affidavit that the voter has not voted at any other precinct in the election.

The voter may vote at subsequent elections as otherwise provided in this title.

(d) If the voter votes by absentee ballot under this section, the circuit court clerk shall do the following:

- (1) Certify in writing that the voter registered under this section.
- (2) Attach the certification to the voter's absentee ballot envelope.

(e) If the county has a board of registration, **the board of registration shall promptly deliver the voter's registration affidavit to the circuit court clerk shall promptly mail or deliver the voter's registration affidavit to the board of registration: permit the voter to vote under subsection (c).**

(f) If the voter chooses not to vote under subsection (c), the ~~clerk or board~~ **county voter registration office** shall register the voter on the first day of the next registration period.

SECTION 48. IC 3-7-38.1-7, AS AMENDED BY P.L.38-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A county voter registration office shall cancel the registration of a voter who is described by both of the following:

- (1) The voter is described in section 4(a)(5)(C) of this chapter.
- (2) The voter has not voted (or appeared to vote or to correct the registration record stating the voter's address) in an election during the period:
 - (A) beginning on the date of the notice sent under section 4(a)(3) of this chapter; and
 - (B) ending on the day after the date of the second general election that occurs after the date of the notice sent under section 4(a)(3) of this chapter.

(b) **If an individual appears to vote after the individual's registration is placed on inactive status under section 5 of this chapter, the individual must affirm under IC 3-10-1 or IC 3-11-8 before the individual is permitted to vote that the individual currently resides at the address shown on the individual's**

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registration.

(c) At the expiration of the period ending thirty (30) days after the second general election described in subsection (a)(2)(B), the county voter registration office shall cancel the registration of a voter described by this section.

SECTION 49. IC 3-7-38.2-2, AS AMENDED BY P.L.209-2003, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A voter list maintenance program conducted under this chapter or before January 1, 2006, IC 3-7-38.1 must be:

- (1) uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973);
- (2) not result in the removal of the name of a person from the official list of votes solely due to the person's failure to vote; and
- (3) completed not later than ninety (90) days before a primary, general, or municipal election.

(b) A county voter registration office may conduct a voter list maintenance program that complies with subsection (a). In conducting a voter list maintenance program, the county voter registration office shall mail a notice described in subsection (d) to each registered voter at the residence address:

- (1) listed in the voter's registration record; and**
- (2) determined by the county voter registration office not to be the voter's current residence address.**

(c) A county voter registration office may use information only from the following sources to make the determination under subsection (b)(2):

- (1) The United States Postal Service National Change of Address Service.**
- (2) A court regarding jury duty notices.**
- (3) The return of a mailing sent by the county voter registration office to all voters in the county.**
- (4) The bureau of motor vehicles concerning the surrender of a voter's Indiana license for the operation of a motor vehicle to another jurisdiction.**

(d) The notice described in subsection (b) must:

- (1) be sent by first class United States mail, postage prepaid, by a method that requires the notice to be forwarded to the voter; and**
- (2) include a postage prepaid return card that:**
 - (A) is addressed to the county voter registration office;**
 - (B) states a date by which the card must be returned or the**

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voter's registration will become inactive until the information is provided to the county voter registration office; and

(C) permits the voter to provide the voter's current residence address.

(e) If a voter returns the card described in subsection (d)(2) and provides a current residence address that establishes that the voter resides:

(1) in the county, the county voter registration office shall update the voter's registration record; or

(2) outside the county, the county voter registration office shall cancel the voter's registration.

(f) If a voter does not return the card described in subsection (d)(2) by the date specified in subsection (d)(2)(B), the county voter registration office shall indicate in the voter's registration record that the voter's registration is inactive.

(g) A voter's registration that becomes inactive under subsection (f) remains in inactive status from the date described in subsection (d)(2)(B) until the earlier of the following:

(1) The date the county voter registration office updates or cancels the voter's registration under subsection (e) after the voter provides a current residence address.

(2) The day after the second general election in which the voter has not voted or appeared to vote.

(h) After the date described in subsection (g)(2), the county voter registration office shall remove the voter's registration from the voter registration records.

SECTION 50. IC 3-7-38.2-13, AS AMENDED BY P.L.38-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county voter registration office has determined under this chapter that a voter's residence may have changed, the election division shall send a notice to the voter that sets forth substantially the following statements as provided in 42 U.S.C. 1973gg-6(d)(2):

(1) If the voter did not change the voter's residence or changed the residence but remained in the same county where the voter was listed on the voter registration record, the voter must return the card enclosed with the notice in person to the county voter registration office not later than twenty-nine (29) days before the election or by regular United States mail:

(A) with a postmark not later than twenty-nine (29) days before the election; or

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(B) if a postmark is missing or illegible, to the county voter registration office not later than twenty-one (21) days before the election.

(2) If the card is not returned under subdivision (1), the voter ~~may be required to~~ **must** affirm or confirm the voter's address before the voter is permitted to vote in an election during the period:

(A) beginning on the date of the notice; and

(B) ending on the day after the date of the second general election scheduled to occur after the date of the notice.

(3) If the voter does not vote in an election described in subdivision (2), the voter's name will be removed from the voter registration list.

(4) If the voter changed residence to a place outside the county in which the voter is included on the voter registration list, information concerning how the voter can continue to be eligible to vote in the county where the voter currently resides.

SECTION 51. IC 3-7-48-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a)** A voter shall be permitted to vote in a precinct upon written affirmation of the voter's residence in the precinct if:

(1) the voter produces a registration receipt indicating that the voter completed a registration form at a license branch or voter registration agency under this article on a date within the registration period; ~~and~~

(2) the county voter registration office advises the precinct election board that the office:

(A) approved the application; or

(B) has no record of either approving or rejecting the application; **and**

(3) the voter completes a registration application form and provides the completed form to the precinct election board before voting.

(b) A county election board shall provide each precinct election board with a sufficient number of the registration forms for the purposes described in subsection (a). The precinct election board shall attach the completed registration forms to the poll list for processing by the county voter registration office under IC 3-10-1-31.

SECTION 52. IC 3-8-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

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(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing the declaration of candidacy or declaration of intent to be a write-in candidate, before the petition of nomination is filed, before the certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, ~~clerk of the supreme court~~, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with ~~IC 33-2.1-8-6~~ **IC 33-23-11-14** and ~~IC 33-2.1-8-7~~ **IC 33-23-11-15**.

SECTION 53. IC 3-8-2-2.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. (a) A candidate may withdraw a declaration of intent to be a write-in candidate not later than noon ~~of the final date to file a declaration of intent to be a write-in candidate under section 4 of this chapter.~~ **July 15 before a general or municipal election.**

(b) This subsection applies to a candidate who filed a declaration of intent to be a write-in candidate with the election division. The election division shall issue a corrected certification of write-in candidates under IC 3-8-7-30 as soon as practicable after a declaration is withdrawn under this section.

SECTION 54. IC 3-8-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a primary election must be filed no later than noon seventy-four (74) days and no earlier than one hundred four (104) days before the primary election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate must be filed not later than noon ~~five (5) days before the final date for the delivery of absentee ballots under IC 3-11-4-15 and not earlier than ninety (90) days before a general election.~~ **on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.** The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(c) During a year in which a federal decennial census, federal

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special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a declaration of:

- (1) candidacy may be filed for an office that will appear on the primary election ballot; or
- (2) intent to be a write-in candidate for an office that will appear on the general, municipal, or school board election ballot;

that year as a result of the new tabulation of population or corrected population count.

SECTION 55. IC 3-8-2-14, AS AMENDED BY P.L.58-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) All questions concerning the validity of a declaration filed with the secretary of state shall be referred to and determined by the commission in accordance with section 18 of this chapter. A statement questioning the validity of a declaration must be filed with the election division under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the primary election.

(b) All questions concerning the validity of a declaration of candidacy filed with a circuit court clerk shall be referred to and determined by the county election board not later than noon fifty-four (54) days before the date of the primary election. A statement questioning the validity of a declaration must be filed with the county election board under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the primary election.

(c) A question concerning the validity of a declaration of intent to be a write-in candidate shall be determined by the commission or the county election board not later than noon ~~seven (7) days~~ **sixty-seven (67) days** before election day. A statement questioning the validity of a declaration of intent to be a write-in candidate must be filed with the election division or county election board under IC 3-8-1-2(c) not later than noon ~~fourteen (14) seventy-four (74)~~ **seventy-four (74)** days before election day.

SECTION 56. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A political party shall conduct a state convention to nominate the candidates of the political party for the following offices to be voted on at the next general election:

- (1) Lieutenant governor.
- (2) Secretary of state.
- (3) Auditor of state.
- (4) Treasurer of state.
- (5) Attorney general.
- (6) Superintendent of public instruction.
- ~~(7) Clerk of the supreme court.~~

(b) The convention shall also:

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- (1) nominate candidates for presidential electors and alternate electors; and
- (2) elect the delegates and alternate delegates to the national convention of the political party.

SECTION 57. IC 3-8-5-2, AS AMENDED BY P.L.167-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A candidate for a town office may be nominated using any of the following methods:

- (1) By convention conducted under this chapter.
- (2) By a primary election.
- (3) By petition filed under IC 3-8-6.
- (4) If a town convention or a primary election is not required under section 10 of this chapter for the political party of which the candidate is a member, by the candidate's declaration of candidacy.

(b) Unless a town legislative body adopts an ordinance under subsection (c), a town shall use the convention method described in this chapter to nominate candidates for town offices.

(c) The town legislative body of a town covered by this chapter may adopt an ordinance to specify any other method described in subsection (a) to nominate candidates for town offices.

(d) The town legislative body must adopt an ordinance under subsection (c) not later than January 1 of the year in which a municipal election is held. The town clerk-treasurer shall send a copy of the ordinance to the circuit court clerk of the county that contains the greatest percentage of the town's population.

(e) If a town **described by section 1 of this chapter** adopts an ordinance under subsection (c) to nominate candidates by a primary election, the following apply:

- (1) The county election board of the county that contains the greatest percentage of the town's population shall conduct the primary election for the town.
- (2) All statutes governing primary elections for towns apply.
- (3) The town may not change the method of nominating candidates for town offices more than one (1) time in any twelve (12) year period.

SECTION 58. IC 3-8-5-10.5, AS AMENDED BY P.L.167-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

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- (b) A declaration of candidacy must be filed:
 - (1) not earlier than January 1; and
 - (2) not later than:
 - (A) noon August 1 before a municipal election if the town nominates its candidates by convention; and
 - (B) the date that a declaration of candidacy must be filed under IC 3-8-2-4 if the town nominates its candidates by a primary election.
- (c) The declaration must be subscribed and sworn to (or affirmed) before a notary public or other person authorized to administer oaths.
- (d) The declaration of each candidate required by this section must certify the following information:
 - (1) The candidate's name, printed or typewritten as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
 - (2) That the candidate is a registered voter and the location of the candidate's precinct and township (or the ward and town), county, and state.
 - (3) The candidate's complete residence address and the candidate's mailing address if the mailing address is different from the residence address.
 - (4) The candidate's party affiliation and the office to which the candidate seeks nomination, including the district designation if the candidate is seeking a town legislative body seat.
 - (5) That the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.
 - (6) The candidate's signature.
- (e) **This subsection does not apply to a town whose municipal election is to be conducted by a county.** Immediately after the deadline for filing, the circuit court clerk shall do all of the following:
 - (1) Certify to the town clerk-treasurer and release to the public a list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other candidates of that political party to file a declaration of candidacy for that office.
 - (2) Post a copy of the list in a prominent place in the circuit court

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clerk's office.

(3) File a copy of each declaration of candidacy with the town clerk-treasurer.

(f) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(g) A person who files a declaration of candidacy for an elected office may not file a declaration of candidacy for that office in the same year as a member of a different political party until the original declaration is withdrawn.

(h) A person who files a declaration of candidacy under this section may file a written notice withdrawing the person's declaration of candidacy in the same manner as the original declaration was filed, if the notice of withdrawal is filed not later than:

- (1) noon August 1 before the municipal election if the town nominates its candidates by convention; and
- (2) the date that a declaration of candidacy may be withdrawn under IC 3-8-2-20 if the town nominates its candidates in a primary election.

(i) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 59. IC 3-8-5-13, AS AMENDED BY P.L.202-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) The chairman and secretary of a town convention shall execute a certificate of nomination in writing, setting out the following:

- (1) The name of each nominee as:
 - (A) the nominee wants the nominee's name to appear on the ballot; and
 - (B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.

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- (2) The residence address of each nominee.
- (3) The office for which each nominee was nominated.
- (4) That each nominee is legally qualified to hold office.
- ~~(5) The political party device or emblem by which the ticket will be designated on the ballot.~~

(b) Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(c) The certificate must be filed with the circuit court clerk of the county having the greatest percentage of the population of the town.

(d) The certificate must be filed with the circuit court clerk no later than noon August 28 before the municipal election.

(e) The circuit court clerk shall file a copy of each certificate with the town clerk-treasurer no later than noon September 4.

SECTION 60. IC 3-8-5-14.7, AS AMENDED BY P.L.144-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14.7. (a) All questions regarding the validity of:

- (1) a declaration of candidacy;
- (2) a petition of nomination; **or**
- (3) a certificate of nomination of a candidate by a town convention; **or a declaration of intent to be a write-in candidate for election to a town office**

subject to this chapter shall be **filed under IC 3-8-1-2 not later than noon seven (7) days after the final date for filing a certificate under section 13(d) of this chapter. The question shall be referred to and determined by the town election board (or by the appropriate county election board if a county election board is conducting the election for the town).**

(b) The election board shall rule on the validity of any document described in subsection (a) not later than noon ~~September 11~~ **seven (7) days** following the **deadline for** filing of the document **required by subsection (a).**

(c) **A question regarding the validity of a declaration to be a write-in candidate for election to a town office must be filed under IC 3-8-1-2 not later than the date and time specified by IC 3-8-2-14(c), and shall be determined by the election board not later than the date and time specified by IC 3-8-2-14(c).**

SECTION 61. IC 3-8-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A town clerk-treasurer shall preserve in the clerk-treasurer's office:

- (1) all certificates of nomination and declarations of candidacy filed with the town clerk-treasurer under this chapter; and

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(2) all petitions of nomination filed under IC 3-8-6-10; for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1** after the municipal election for which the nominations were made.

SECTION 62. IC 3-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each candidate nominated by petition under section 2 of this chapter must be seeking an office that serves the entire state or a congressional or legislative district, or the same political subdivision.

(b) For purposes of subsection (a), candidates seeking a fiscal or legislative body seat elected only by the voters of a district within a county or municipality and candidates seeking an office to be voted on by all the voters of the county or municipality are considered to be seeking offices that serve the same political subdivision.

(c) An independent candidate may not include the name of any other candidate on the petition or request to be placed on the ballot as associated with any other candidate, except for the other candidate included on **a an independent** ticket for President and Vice President of the United States or governor and lieutenant governor.

SECTION 63. IC 3-8-6-5, AS AMENDED BY P.L.202-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A petition of nomination must state all of the following:

- (1) The name of each candidate as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The address of each candidate, including the mailing address, if different from the residence address of the candidate.
- (3) The office that each candidate seeks.
- (4) The information required under IC 3-10-4-5, if the petition nominates candidates for presidential electors.
- (5) That the petitioners desire and are registered and qualified to vote for each candidate.
- (6) Whether the candidate is affiliated with the same political party as any other candidate or group of candidates that has filed or will be filing a petition of nomination with the county voter registration office under section 10 of this chapter. This subdivision:**
 - (A) applies after December 31, 2004; and**
 - (B) does not apply to an independent candidate.**

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(b) A petition of nomination ~~may~~ **must**:

(1) designate a brief name of the political party that the candidates represent; ~~or~~

(2) indicate that the candidate is an independent candidate; **or together with a simple figure or device by which its lists of candidates may be designated on the ballot.**

(3) **indicate that the candidates are an independent ticket.**

(c) **If a political party has previously filed a device with the election division under IC 3-8-7-11, the petition may incorporate that device by reference in the petition. If a political party has not previously filed a device under IC 3-8-7-11, or the petition is for an independent ticket, the petition of nomination may include a device for designating the party or ticket on the ballot.**

SECTION 64. IC 3-8-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) This section applies to a petition of nomination which states that a candidate is affiliated with a political party.

(b) If a candidate claims affiliation with a political party:

(1) described by IC 3-8-4-1;

(2) of a candidate who has previously filed a petition of nomination under ~~IC 3-8-6~~; **this chapter**; or

(3) whose name would result in voter confusion due to its similarity with the name of a political party described in subdivision (1) or (2);

a registered voter of the election district may question the validity of the filing in accordance with IC 3-8-1-2.

(c) **If the voter affirms under subsection (b) that:**

(1) **the candidate is not the nominee of the political party described in subsection(b)(1);**

(2) **the candidate is not affiliated with the political party described in subsection(b)(2); or**

(3) **the name of the political party set forth in the petition would cause voter confusion under subsection (b)(3);**

the commission or county election board shall determine the validity of the questioned filing under section 14 of this chapter.

~~(c)~~ **(d)** Following the filing of a question under subsection ~~(b)~~ **(b)(3)** and not later than the deadline for resolution of a question concerning a petition under section 14 of this chapter, all candidates named in the petition may file a joint written amendment to the petition to alter the name of the political party or to indicate that the candidates are independent.

~~(d)~~ **(e)** If:

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(1) the commission or county election board determines that the party affiliation stated on the petition is described under subsection (b) **and that the affirmation of the voter under subsection (c) is correct;** and

(2) **in the case of a determination under subsection (c)(3),** the candidates do not file an amendment under subsection ~~(c)~~; (d); the commission or board shall deny the filing.

SECTION 65. IC 3-8-6-17, AS AMENDED BY P.L.202-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) If:

(1) a petition of nomination contains the name of at least one (1) candidate who seeks to be placed on the ballot as the candidate of a political party described by section 1 of this chapter; and

(2) a candidate listed on the petition ceases to be a candidate after the petition is circulated for signature or filed;

the candidate may be replaced on the petition in accordance with this section.

(b) This subsection applies to a candidate described in subsection (a) who sought a federal, state, or legislative office **or a local office described by IC 3-8-2-5.** The state chairman of the political party may file a written statement with the election division stating the name of the substitute candidate. The statement must:

(1) be on a form prescribed by the commission;

(2) state the following:

(A) the name of the individual who ceased to be a candidate;

(B) the date and reason the individual ceased to be a candidate; and

(C) the name of the individual who will replace the candidate as:

(i) the individual wants the individual's name to appear on the ballot; and

(ii) the individual's name is permitted to appear on the ballot under IC 3-5-7; and

(3) be accompanied by the following:

(A) The replacement candidate's consent to be nominated by the petition and, if other candidates were listed on the petition, the signed consent of those candidates to be the replacement.

(B) The former candidate's statement of withdrawal in a form substantially similar to the form prescribed under IC 3-8-7-28 if the individual withdrew as a candidate.

A replacement candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter

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registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(c) This subsection applies to a candidate described in subsection (a) who sought a local office **other than a local office described by IC 3-8-2-5**. The county, city, or town chairman of the political party may file a written statement that conforms with subsection (b) with the election board conducting the election for the local office.

(d) The statement required under subsection (b) or (c) must be filed not later than the final date and time for the certification of presidential and vice presidential nominees under IC 3-10-4-5.

(e) If a petition of nomination is circulated or filed by an independent candidate and that individual ceases to be a candidate, another candidate may not be substituted on the petition of nomination.

SECTION 66. IC 3-8-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (f), if a political party has filed a statement with the election division (or any of its predecessors) that the device selected by the political party be used to designate the candidates of the political party on the ballot for all elections throughout the state, the device must be used until:

- (1) the device is changed in accordance with party rules; and
- (2) a statement concerning the use of the new device is filed with the election division.

(b) Except as provided in subsection (c), the device may be any appropriate symbol.

(c) A political party or an independent candidate may not use as a device:

- (1) a symbol that has previously been filed by a political party or candidate with the election division (or any of its predecessors);
- (2) the coat of arms or seal of the state or of the United States;
- (3) the national or state flag; or
- (4) any other emblem common to the people.

(d) Not later than noon, August 20, before each election:

- (1) the state chairman of each political party whose candidates are to be certified under this section; or

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(2) an individual filing a petition of nomination for candidates to be certified under this section;
shall file with the election division a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose name or device is to be printed only on ballots prepared by a county election board. Not later than noon, August 20, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. **The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by the town election board.**

(f) If a copy of the device is not filed in accordance with subsection ~~(c)~~ or (d) or (e), or unless a device is designated in accordance with section 26 or 27 of this chapter, the election division, ~~or~~ county election board, **or town election board** is not required to use any device to designate the list of candidates.

SECTION 67. IC 3-8-7-16, AS AMENDED BY SEA 263-2004, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) This section does not apply to the certification of nominees under IC 3-10-4-5.

(b) The election division shall certify the following to each county election board not later than noon ~~August 20~~ **seventy-four (74) days** before ~~an~~ **a general** election:

(1) The name and place of residence of each person nominated for election to:

- (A) an office for which the electorate of the whole state may vote;
- (B) the United States House of Representatives;
- (C) a legislative office; or
- (D) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(2) The name of each:

- (A) justice of the supreme court;
- (B) judge of the court of appeals; and
- (C) judge of the tax court;

who is subject to a retention vote by the electorate and who has

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filed a statement under IC 33-24-2 or IC 33-25-2 indicating that the justice or judge wishes to have the question of the justice's or judge's retention placed on the ballot.

(c) Subject to compliance with section 11 of this chapter, the election division shall designate the device under which the list of candidates of each political party will be printed and the order in which the political party ticket will be arranged under IC 3-10-4-2 and IC 3-11-2-6.

SECTION 68. IC 3-8-7-24, AS AMENDED BY P.L.38-1999, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The election division and each circuit court clerk shall preserve all certificates and petitions of nomination filed under this article for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 69. IC 3-8-7-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) Except as provided in subsections (b) and (c), if a nominee certified under this chapter, **IC 3-8-5, IC 3-8-6, or IC 3-10-1** desires to withdraw ~~from the ticket, as the nominee,~~ the nominee must file a notice of withdrawal in writing with the public official with whom the certificate of nomination was filed by noon:

- (1) July 15 before a general or municipal election; ~~or~~
- (2) **August 1 before a municipal election in a town subject to IC 3-8-5-10;**
- (3) **on the date specified for town convention nominees under IC 3-8-5-14.5;**
- (4) **on the date specified for declared write-in candidates under IC 3-8-2-2.7; or**
- (5) forty-five (45) days before a special election.

(b) A candidate who is disqualified from being a candidate under IC 3-8-1-5 must file a notice of withdrawal immediately upon becoming disqualified. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

(c) A candidate who has moved from the election district the candidate sought to represent must file a notice of withdrawal immediately after changing the candidate's residence. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

SECTION 70. IC 3-8-7-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) Not later than noon ~~of the day before the final date for the delivery of absentee ballots under IC 3-11-4-15,~~ **August 1,** the election division shall certify

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to each county election board:

- (1) the name of each individual who filed a declaration of intent to be a write-in candidate with the election division; and
- (2) any political party that the individual is affiliated with, or whether the individual is an independent candidate.

(b) This subsection applies to a county that does not use a central location to tally ballot card votes. The circuit court clerk shall provide a copy of the certification under this section to the inspector of each precinct, with instructions concerning the counting of write-in votes for declared write-in candidates.

SECTION 71. IC 3-9-4-14, AS AMENDED BY P.L.176-1999, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The election division and each county election board shall do all of the following:

- (1) Ascertain whether candidates, committees, or other persons have:

- (A) failed to file statements of organization or reports; or
- (B) filed defective statements of organization or reports.

- (2) Give the following notices:

- (A) To delinquents to file a statement of organization or a report immediately upon receipt of the notice. A delinquency notice **for a report** must be given not later than thirty (30) days after the date the report was required to be filed. The election division or a county election board may, but is not required to, give delinquency notices at other times.

- (B) To persons filing defective reports to make a supplemental statement or report correcting all defects not later than noon five (5) calendar days after receipt of the notice.

- (3) Make available for public inspection a list of delinquents and persons who have failed to file the required supplemental statement or report. The election division and each county election board shall post a list of delinquents in a public place at or near the entrance of the commission's or board's respective offices.

- (b) The election division shall mail:

- (1) to each candidate required to file a campaign finance report with the election division; and
- (2) twenty-one (21) days before the campaign finance reports are due;

the proper campaign finance report forms and a notice that states the date the campaign finance reports are due. The election division is required to mail notices and forms only to candidates for state offices

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and legislative offices. A county election board may, but is not required to, implement this subsection for candidates for local offices.

(c) Notwithstanding any notice given to a delinquent under subsection (a) or (b), the delinquent remains liable for a civil penalty in the full amount permitted under this chapter for failing to file a campaign finance report or statement of organization not later than the date and time prescribed under this article.

SECTION 72. IC 3-9-4-16, AS AMENDED BY P.L.66-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to file with the election division a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.
- (4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.
- (5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.
- (6) Makes a contribution in the name of another person.
- (7) Accepts a contribution made by one (1) person in the name of another person.
- (8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.
- (9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
- (10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.
- (11) Violates IC 3-9-2-12.
- (12) Fails to designate a contribution as required by IC 3-9-2-5(c).
- (13) Violates IC 3-9-3-5.
- (14) Serves as a treasurer of a committee in violation of any of the following:**
 - (A) IC 3-9-1-13(1).**
 - (B) IC 3-9-1-13(2).**

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(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.

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(2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(j)~~ **(k)** Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 73. IC 3-9-4-17, AS AMENDED BY P.L.66-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with a county election board a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this

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article or to a person authorized by law or a committee to receive contributions in the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Fails to designate a contribution as required by IC 3-9-2-5(c).

(12) Violates IC 3-9-3-5.

(13) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

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(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(i) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

~~(j)~~ (j) Money in the campaign finance enforcement account does not

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revert to the county general fund at the end of a county fiscal year.

⌘ (k) Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 74. IC 3-9-5-9, AS AMENDED BY P.L.199-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Except as provided in subsections (b) and (c), in a year in which a candidate is not a candidate for election to an office to which this article applies or does not seek nomination at a caucus or state convention for election to an office to which this article applies, the treasurer of the candidate's committee shall file only the report required by section 10 of this chapter.

(b) This subsection applies to a candidate who holds one (1) office and is a candidate for a different office (or has filed a statement of organization for an exploratory committee without indicating that the individual is a candidate for a specific office). The treasurer of the candidate's committee for the office the candidate holds shall file the following reports:

(1) If the committee spends, transfers in, or transfers out at least ten thousand dollars (\$10,000) from January 1 until twenty-five (25) days before the primary election, the treasurer shall file a pre-primary report under section 6 of this chapter.

(2) If the committee spends, transfers in, or transfers out at least ten thousand dollars (\$10,000) from twenty-five (25) days before the primary election until twenty-five (25) days before the general election, the treasurer shall file a pre-general election report under section 6 of this chapter.

(3) The report required under section 10 of this chapter.

(c) This subsection applies to a candidate who is required to file a pre-primary report or pre-convention report under section 6 of this chapter and who:

(1) is defeated at the primary election or convention; or

(2) withdraws or is disqualified as a candidate before the general election.

The treasurer of a candidate's committee described by this subsection is not required to file a pre-general election report under section 6 of this chapter but shall file the report required by section 10 of this chapter.

(d) This subsection applies to a candidate for election to a city office or a town office. If a municipal primary is not conducted in the municipality by one (1) or more parties authorized to conduct a primary, the candidate must file a report in accordance with the schedule set forth in section 6 of this chapter as if the primary were

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conducted. If a municipal election is not conducted in the municipality, the candidate must file a report in accordance with section 6 of this chapter as if the municipal election were conducted.

SECTION 75. IC 3-10-1-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.1. (a) All the candidates for each office who have qualified in the manner prescribed by IC 3-8 for placement on the primary election ballot shall be grouped together under the name of the office and printed in type with uniform capital letters, with uniform space between each name. At the head of each group where only one (1) candidate for each group is to be voted for, the words "vote for one (1) only" shall be printed. If more than one (1) candidate in a group is to be voted for, the number to be voted for shall be specified at the head of the group.**

(b) This subsection does not apply to a candidate for a political party office. A candidate's given name and surname as set forth in the candidate's voter registration record shall be printed in full.

(c) In addition to the candidate's given name and surname, the candidate may use:

(1) initials; or

(2) a nickname by which the candidate is commonly known; if the candidate's choice of initials or nickname does not exceed twenty (20) characters. Any nickname used must appear in parentheses between the candidate's given name and the candidate's surname.

(d) A candidate may not use a designation such as a title or degree or a nickname that implies a title or degree.

(e) A candidate's name must be printed on the ballot exactly as the name appears on the candidate's certificate of nomination, petition of nomination, or declaration of candidacy.

SECTION 76. IC 3-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. Each political party holding a primary election shall have a separate ticket, either in printed ballot form as prescribed by sections 13 and ~~14~~ 14.1 of this chapter, or on separate ballot labels. The name of each candidate who has qualified under IC 3-8 shall be placed on the ballot under a designation of the office for which the person is a candidate. However, the name of a candidate may not appear on the ballot of more than one (1) party for the same office.**

SECTION 77. IC 3-10-1-31, AS AMENDED BY P.L.209-2003,

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SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) **This section applies to election materials for elections held before January 1, 2004.**

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

~~(b)~~ (c) Except for unused ballots disposed of under IC 3-11-3-31, the circuit court clerk shall carefully preserve the ballots and other material and keep all seals intact for twenty-two (22) months, as required by 42 U.S.C. 1974, after which they may be destroyed unless:

- (1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

~~(c)~~ (d) This subsection applies before January 1, 2006. Upon delivery of the poll lists, the ~~the~~ county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) adding the registration of a voter under IC 3-7-48-8; or
- (4) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. ~~15843~~ **15483** and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection ~~(b)~~ (c).

~~(d)~~ (e) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration

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office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection ~~(b)~~ (c).

~~(c)~~ (f) After the expiration of the period described in subsection ~~(b)~~, (c), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 78. IC 3-10-1-31.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.**

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or**
- (2) 42 U.S.C. 1973;**

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) This subsection applies before January 1, 2006. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

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- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41;
- (4) adding the registration of a voter under IC 3-7-48-8; or
- (5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41; or
- (4) adding the registration of a voter under IC 3-7-48-8;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(g) This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the

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election material necessary to protect the secrecy of the voter's ballot.

(h) After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 79. IC 3-10-2-7, AS AMENDED BY P.L.122-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The following public officials shall be elected in 2002 and every four (4) years thereafter:

- (1) Secretary of state.
- (2) Auditor of state.
- (3) Treasurer of state.
- ~~(4) Clerk of the supreme court.~~

SECTION 80. IC 3-10-4-5, AS AMENDED BY P.L.66-2003, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This subsection applies to a major political party and to a political party subject to IC 3-8-4-10. The state chairman of each political party shall certify to the election division the names of the nominees of the party for President and Vice President of the United States and the state of which each nominee is a resident.

(b) If candidates for presidential electors are nominated by petitioners instead of by a convention of a major political party or a party subject to IC 3-8-4-10, the petitioners shall certify with the list of names of electors:

- (1) the names of their nominees for President and Vice President of the United States;
- (2) the state of which each nominee is a resident; and
- (3) the name of the political party of the nominees, or that the nominees are an independent ticket.

(c) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under subsection (b). The names of:

- (1) all candidates for presidential electors; and
- (2) all nominees for President and Vice President of the United States;

shall be certified to the election division not later than noon on the second Tuesday in September before the general election. The election division shall certify to each county election board not later than noon on the ~~second~~ **next following** Thursday in September before the general election the names of the nominees for President and Vice President of the United States certified to the election division under

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this subsection.

(d) The names of all candidates for presidential electors for a write-in candidate shall be included on the declaration for candidacy filed by a write-in candidate for the office of President or Vice President of the United States filed under IC 3-8-2.

SECTION 81. IC 3-10-6-5, AS AMENDED BY P.L.122-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. Except as otherwise provided in this chapter, a municipal election shall be held on the first Tuesday after the first Monday in November ~~2003~~ 2007 and every four (4) years thereafter. At the election, public officials shall be elected to each municipal ~~and school board~~ office.

SECTION 82. IC 3-10-6-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) Subject to subsection (b), an election may not be held for a municipal office if:

- (1) there is only one (1) nominee for the office **or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5;** and
- (2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 **that results in a contest for election to the same municipal office.**

(b) Except as provided in subsection (c), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(c) If:

- (1) there is an election for at least one (1) of a municipality's legislative body members;
- (2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and
- (3) there is no election for an office to be voted on by all voters of the municipality;

the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the municipality in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the municipality shall not be placed on the ballot used for the election of municipal legislative body members under this subsection.

SECTION 83. IC 3-10-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **Except as otherwise provided in this chapter,** the county election board, county executive,

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circuit court clerk, **voters**, and members of political parties in each county in which a municipal primary election or municipal election will be held have the rights and shall perform the duties and furnish the assistance that they are required to do for a primary and general election under IC 3-10-1 and IC 3-11-8.

SECTION 84. IC 3-10-7-4, AS AMENDED BY P.L.66-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A county election board and a town may enter into a written agreement providing that the county election board will conduct a municipal **primary or a municipal** election, **or both**, in the town.

(b) A town that enters into an agreement described in subsection (a) shall continue to nominate candidates by convention conducted under IC 3-8-5 or by petition filed under IC 3-8-6 unless the town nominates candidates in a primary election as provided in IC 3-8-5-2.

(c) An agreement may not be entered into after ~~July 1~~ **September 21** of a year in which a municipal election is to be held in the town.

(d) A county election board that enters into an agreement under this section shall conduct the municipal election in the same manner as it conducts a general election in a town that has a population of three thousand five hundred (3,500) or more.

SECTION 85. IC 3-10-7-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.5. (a) The county election board shall conduct a municipal election in a town ~~that has a population of less than five hundred (500)~~ unless the town legislative body adopts a resolution during the period:

- (1) beginning January 1; and
- (2) ending ~~April 1~~ **August 8**;

before the municipal election to establish a town election board under this chapter to conduct the municipal election.

(b) The town clerk-treasurer must file a copy of the resolution with the circuit court clerk of the county having the greatest percentage of the population of the town ~~before May 1~~ **not later than noon August 21** after the resolution is adopted.

(c) A resolution adopted under this section expires December 31 after its adoption.

SECTION 86. IC 3-10-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A municipal election conducted under this chapter shall be held at the time prescribed by IC 3-10-6.

(b) Subject to subsection (c), an election may not be held for a municipal office if:

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(1) there is only one (1) nominee for the office **or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5;** and

(2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 **that results in a contest for election to the same municipal office.**

(c) Except as provided in subsection (d), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(d) If:

(1) there is an election for at least one (1) of the town's legislative body members;

(2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and

(3) there is no election for an office to be voted on by all voters of the town;

the county election board (or town election board if that board is conducting the election under this chapter) may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the town in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the town shall not be placed on the ballot used for the election of town legislative body members under this subsection.

SECTION 87. IC 3-10-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. Except as otherwise provided in this chapter, a town election board conducting a municipal election under this chapter, the town executive, the town clerk-treasurer, **voters**, and members of political parties in each town in which a municipal election is conducted under this chapter have the same rights and powers, shall perform the same duties, and are subject to the same qualifications and penalties as a county election board that is conducting a general election, or the county executive, circuit court clerk, or member of a political party in a town in which a general election is conducted by the county election board.

SECTION 88. IC 3-10-7-33, AS AMENDED BY P.L.209-2003, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) A town election board shall canvass the votes from a municipal election in the manner prescribed by IC 3-12-4.

(b) After completion of the canvass, the town election board shall

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immediately file the poll lists, ballots, tally sheets, and other election forms with the circuit court clerk of the county containing the greatest percentage of population of the town for preservation and voter list maintenance in accordance with IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 89. IC 3-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

- (1) under a court order under IC 3-12-8; or
- (2) for a local public question;

the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

- (1) under a court order under IC 3-12-8 for a school board office; or
- (2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. **If the board has adopted a resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board.** A resolution adopted under this subsection may not be rescinded by the county election board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

- (1) The inspector shall be nominated by the county chairman entitled to nominate an inspector under IC 3-6-6-8.
- (2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.
- (3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

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SECTION 90. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the ~~first day of the month following the month in which the special election is conducted.~~ **date specified by IC 3-7-13-10(d).**

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

- (1) have registered through the twenty-ninth day before the special election is to be conducted; or
- (2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.

SECTION 91. IC 3-11-1.5-15, AS AMENDED BY P.L.212-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The order described in section 14 of this chapter must include the following:

- (1) A map of each precinct to be established by the proposed order. A county may submit maps required by this subdivision in electronic form.
- (2) A description of the boundaries of each precinct to be established by the proposed order that identifies any census blocks located entirely within the precinct.
- (3) An estimated number of voters in each precinct to be established by the proposed order, based on the registration records maintained by the ~~circuit court clerk or board of county voter registration office.~~
- (4) A statement designating a polling place for the precinct that complies with the polling place accessibility requirements adopted ~~by the commission.~~ **under IC 3-11-8.**
- (5) Any additional information required by rules adopted by the commission under IC 4-22-2.

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SECTION 92. IC 3-11-1.5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) If the boundaries of a municipality are extended before

(1) ~~thirty (30) days before~~ a municipal primary election or

(2) ~~thirty (30) days before~~ a municipal election,

and the territory within those boundaries has not been included in precincts wholly within the municipality, the voters within the extended boundaries may vote, if otherwise qualified, in the municipal primary election or municipal election.

(b) The voters may vote in the precinct in which they have their residence as if the precinct had been established to include them in a precinct wholly within the municipality. These votes shall be counted and included in the canvass of the votes cast in the municipal primary election or municipal election.

SECTION 93. IC 3-11-2-2, AS AMENDED BY P.L.66-2003, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Each county election board shall have the:

(1) names of all candidates for United States Representative, legislative offices, and local offices; and

(2) local public questions;

in election districts within the county printed on a ballot as provided in this chapter. The county may print all offices on a single ballot under this section.

(b) This section expires January 1, 2005.

SECTION 94. IC 3-11-2-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.1. (a) **This section applies after December 31, 2004.**

(b) Each county election board shall have the:

(1) names of all candidates for election to offices or retention in offices; and

(2) state and local public questions;

in election districts wholly or partially within the county printed on a ballot as provided in this chapter. The county may print all offices on a single ballot under this section.

SECTION 95. IC 3-11-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The device named and list of nominees shall be placed on the ballots as follows:

(1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election in the first column or row on the left side of all ballots.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state at the

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last election in the second column or row.

(3) Any other political party in the same order.

(b) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate (or **an independent ticket for President and Vice President of the United States or for governor and lieutenant governor**), the party or independent candidate or ticket shall be placed on the ballot after the parties described in subsection (a). If more than one (1) political party or independent candidate or ticket that has qualified to be on the ballot did not have a candidate for secretary of state in the last election, those parties, candidates, or tickets shall be listed on the ballot in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(c) **Subject to subsection (e)**, a column or row for write-in voting shall be placed to the right of all party and independent columns on the ballot.

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled.

(e) A column or row for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 96. IC 3-11-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The device of each political party or independent ticket **described in section 6 of this chapter** shall be:

(1) enclosed in a circle not less than three-fourths (3/4) of an inch in diameter; and

(2) placed under the name of the party or independent ticket, as required by section 10 of this chapter.

SECTION 97. IC 3-11-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The name or title of the political party or independent ticket **described in section 6 of this chapter** shall be placed at the top of the ballot. The device of the political party or independent ~~candidate~~ **ticket** shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device, or if the ballot is part of a direct recording electronic voting system:

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- (1) the instructions for voting a straight party ticket; and
- (2) the statement concerning presidential electors required under IC 3-10-4-3;

may be posted in any location within the voting booth that permits the voter to easily read the instructions instead of on the ballot face.

(b) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot. If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

(c) If the ballot contains an independent ticket **described in section 6 of this chapter** and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(d) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted."

(e) Except for variations in ballot arrangement permitted for voting machines under IC 3-11-12-7, ballot card voting systems under IC 3-11-13-11, or electronic voting systems under IC 3-11-14-7, the list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(f) The election division or the circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 98. IC 3-11-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

- (1) Federal and state offices:

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- (A) President and Vice President of the United States.
- (B) United States Senator.
- (C) Governor and lieutenant governor.
- (D) Secretary of state.
- (E) Auditor of state.
- (F) Treasurer of state.
- (G) Attorney general.
- (H) Superintendent of public instruction.
- ~~(I) Clerk of the supreme court.~~
- ~~(J)~~ **(I)** United States Representative.
- (2) Legislative offices:
 - (A) State senator.
 - (B) State representative.
- (3) Circuit offices and county judicial offices:
 - (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
 - (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
 - (C) Judge of the probate court.
 - (D) Judge of the county court, with each division separate, as required by ~~IC 33-10.5-4-2~~ **IC 33-30-3-3**.
 - (E) Prosecuting attorney.
 - (F) Clerk of the circuit court.
- (4) County offices:
 - (A) County auditor.
 - (B) County recorder.
 - (C) County treasurer.
 - (D) County sheriff.
 - (E) County coroner.
 - (F) County surveyor.
 - (G) County assessor.
 - (H) County commissioner.
 - (I) County council member.
- (5) Township offices:
 - (A) Township assessor.
 - (B) Township trustee.
 - (C) Township board member.
 - (D) Judge of the small claims court.
 - (E) Constable of the small claims court.
- (6) City offices:

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- (A) Mayor.
- (B) Clerk or clerk-treasurer.
- (C) Judge of the city court.
- (D) City-county council member or common council member.
- (7) Town offices:
 - (A) Clerk-treasurer.
 - (B) Judge of the town court.
 - (C) Town council member.

SECTION 99. IC 3-11-2-12.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.7. (a) This section applies to candidates for election to at-large seats on the fiscal or legislative body of a political subdivision.

(b) Candidates shall be listed in alphabetical order according to surname within each row or column on the ballot.

(c) In each row or column on the ballot in which the names of candidates appear, the ballot shall contain a statement reading substantially as follows above the name of the first candidate: "Vote for not more than (insert number of candidates to be elected) candidates of ANY party or ticket for this office."

(d) If more than one (1) candidate for an at-large seat was nominated by the same petition of nomination, these candidates shall be listed in alphabetical order by surname within the same row or column on the ballot, with the position of the row or column being determined under section 6 of this chapter.

SECTION 100. IC 3-11-3-2, AS AMENDED BY P.L.126-2002, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The election division shall have printed and shall distribute to the circuit court clerk of each county at each general election the following:

- (1) If only paper ballots are used, the number of state paper ballots (and presidential ballots in a presidential election year) equal to one hundred percent (100%) of the number of voters in the county.
- (2) If voting machines, ballot card voting systems, or electronic voting systems are used, only the number of presidential and state paper ballots that, in the election division's judgment, are necessary to meet an emergency.
- (3) ~~After December 31, 2003,~~ The number of provisional ballots for state offices (and provisional ballots for **electors for** President of the United States in presidential election years) that the election division considers necessary.
- (b) The paper ballots shall be wrapped in packages, plainly marked,

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and securely sealed.

(c) The provisional ballots shall be separately wrapped in packages from the other paper ballots, plainly marked, and securely sealed.

(d) The clerk shall give a receipt for the paper ballots and the provisional ballots.

SECTION 101. IC 3-11-4-1, AS AMENDED BY P.L.126-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot. Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2)** or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 102. IC 3-11-4-3, AS AMENDED BY P.L.1-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b) and section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on election day if the voter registers to vote under IC 3-7-36-14.

(2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk **or is an absent**

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uniformed services voter or overseas voter who requests that the ballot be transmitted by fax under section 6(h) of this chapter.

(3) Noon on the day before election day if:

(A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.

(4) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by fax;

from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by fax, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by fax or hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 103. IC 3-11-4-12, AS AMENDED BY P.L.38-1999, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The absentee ballots for:

(1) President and Vice President of the United States;

(2) United States Senator;

(3) all state offices; and

(4) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets and independent candidates.

(c) **Except as provided in subsection (f)**, ballots prepared under this section must provide space for the voter to cast a write-in ballot.

(d) The election division shall prepare a special absentee ballot for use by:

(1) absent uniformed services voters; and

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- (2) overseas voters;
 who will be outside of the United States on general election day.
- (e) The ballot described by subsection (d):
- (1) must indicate each state office to be elected by the voters at the general election;
 - (2) must set forth each public question to be voted for at the general election by the electorate of the entire state;
 - (3) may not state the name of any political party or candidate for election;
 - (4) must permit the voter to write in the name of a political party or a candidate for election to each office; and
 - (5) must include a notice stating that regular absentee ballots will be mailed to the voter by the county election board as soon as the ballots are available.

(f) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 104. IC 3-11-4-14, AS AMENDED BY P.L.66-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** All absentee ballots other than those specified in section 12 of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 of this chapter and receiving all certifications from the election division required under IC 3-8 or IC 3-10, the county election board shall immediately proceed to prepare and have printed the ballots.

(b) Except as provided in subsection (c), ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(c) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 105. IC 3-11-4-18, AS AMENDED BY P.L.209-2003, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) If a voter satisfies any of the following, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

- (1) The voter will be absent from the county on election day.
- (2) The voter will be absent from the precinct of the voter's

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residence on election day because of service as:

- (A) a precinct election officer under IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - (C) a challenger or pollbook holder under IC 3-6-7; or
 - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.
- (4) The voter is a voter with disabilities.
- (5) The voter is an elderly voter.
- (6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.
- (7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.
- (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) ~~This subsection applies after December 31, 2003.~~ If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted **as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot.** The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) The ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) The ballot described in subsection (d):

- (1) must be mailed:
 - (A) on the day of the receipt of the voter's application; or
 - (B) not more than five (5) days after the **latest date of for**

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delivery of the ballots under section 13(b) of this chapter
applicable to that election;

whichever is later; and

(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ~~ballots~~ **votes** for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 106. IC 3-11-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A voting machine must permit a voter to vote:

(1) except at a primary election, for:

(A) all the candidates of one (1) political party;

(B) one (1) or more candidates of each political party;

(C) one (1) or more candidates nominated by petition under IC 3-8-6; or

(D) a write-in candidate, unless the procedures in subsection (b) are followed;

(2) for as many candidates for an office as the voter may vote for, but no more;

(3) for or against a public question on which the voter may vote, but no other; and

(4) for all the candidates for presidential electors of a political party or an independent ticket at one (1) time.

(b) **Except as provided in subsection (c)**, in a precinct using voting machines that do not permit write-in votes, the precinct election board shall provide a paper ballot to a voter who requests to cast a write-in vote. After such a request, a poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) require the voter to sign the poll list; and

(2) inform the voter of the procedure that must be followed to cast a write-in vote.

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(c) Paper ballots for write-in voting for an office are not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 107. IC 3-11-6.5-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. The secretary of state, with the consent of the co-directors of the election division, may administer the fund in accordance with the HAVA state plan, as published in the Indiana Register on November 1, 2003. The state plan may be amended in accordance with the requirements of HAVA and the procedures for amendment set forth in the plan. If the plan is amended as provided in this section, the fund may be administered in accordance with that amendment.

SECTION 108. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A proposed improvement or change to a ballot card voting system shall be reported to the election division by:

(1) the vendor, if a vendor is involved in the proposed change; and

(2) the county election board, if a county is proposing the change. A proposed improvement or change may not be **marketed, sold, leased, installed, or implemented in Indiana** before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter.

(d) After the commission has approved an improvement or change, the improvement or change may be **marketed, sold, leased, installed, or implemented in Indiana**.

SECTION 109. IC 3-11-7-17, AS AMENDED BY P.L.126-2002, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine a ballot card voting system that the

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commission has previously approved to determine if the system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the ~~vendor~~ **voting system**.

(c) If the commission's approval is rescinded under subsection (b), the commission may, by unanimous vote of all of the members of the commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to a ballot card voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 110. IC 3-11-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) **Except as provided in subsection (g)**, the approval of a ballot card voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before considering the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

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(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or**
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;**

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 111. IC 3-11-7.5-5, AS AMENDED BY P.L.176-1999, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A proposed improvement or change to an electronic voting system shall be reported to the election division by:

- (1) the vendor, if a vendor is involved in the proposed change; and
- (2) the county election board, if a county is proposing the change.

A proposed improvement or change may not be **marketed, sold, leased, installed, or implemented in Indiana** before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

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(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this article.

(d) After the commission has examined and approved an improvement or change to an electronic voting system, the improvement or change may be **marketed, sold, leased, installed, or implemented in Indiana.**

SECTION 112. IC 3-11-7.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. The county election board may provide for the experimental use of an electronic voting system at an election in one (1) or more precincts in the county. The system may be used without a formal adoption **by the county** or purchase but **the electronic voting system** must be approved by the commission **before the system is implemented in or used by the county.** The experimental use of a system at an election **in accordance with this section** is valid for all purposes as if formally adopted **by the county.**

SECTION 113. IC 3-11-7.5-26, AS AMENDED BY P.L.126-2002, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine an electronic voting system that the commission has previously approved to determine if that system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the ~~vendor~~ **voting system.**

(c) If the commission's approval is rescinded under subsection (b), the commission may by unanimous vote of all of the members of the commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved for its initial certification before:

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- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 114. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) **Except as provided in subsection (g),** the approval of an electronic voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of the commission's entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in**

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Indiana; or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 115. IC 3-11-8-4.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.3. If ~~a precinct contains less than two hundred fifty (250) active voters;~~ **the county election board adopts an order by the unanimous vote of the entire membership of the board,** the county executive may locate the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct. **An order adopted under this section expires December 31 after the date the order was adopted.**

SECTION 116. IC 3-11-8-15, AS AMENDED BY P.L.209-2003, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) **Only the following persons ~~other than~~ are permitted in the polls during an election:**

- (1) Members of a precinct election board.
- (2) Poll clerks and assistant poll clerks.
- (3) Election sheriffs.
- (4) Deputy election commissioners.
- (5) Pollbook holders.
- (6) Watchers. ~~and~~
- (7) Voters for the purposes of voting.**
- (8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29. ~~and~~**
- ~~(8)~~ **(9) An assistant to a precinct election officer appointed under IC 3-6-6-39.**

~~are not permitted in the polls during an election except for the purpose of voting:~~

- (10) An individual authorized to assist a voter in accordance with IC 3-11-9.**
- (11) A member of a county election board, acting on behalf of the board.**

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(12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).

(13) Either of the following who have been issued credentials signed by the members of the county election board:

(A) The county chairman of a political party.

(B) The county vice chairman of a political party.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 117. IC 3-11-8-25.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25.2. (a) This section applies after December 31, 2005.**

(b) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present a piece of identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

(1) A current and valid photo identification.

(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

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(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 118. IC 3-11-8-26, AS AMENDED BY P.L.209-2003, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) If a voter:

- (1) cannot sign; or
- (2) is a voter with a disability that makes it difficult for the voter to sign;

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be.

(b) If satisfied as to the voter's identity under subsection (a), one (1) of the poll clerks shall then place the following on the poll list:

- (1) The voter's name.
- (2) The voter's current residence address.

(c) The poll clerks shall:

- (1) ask the voter to provide **or update** the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(d) The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote.

(e) This section expires January 1, 2006.

SECTION 119. IC 3-11-8-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. Each inspector shall return the poll lists, together with the oaths of the precinct election board members, in a sealed envelope separate from all other precinct election returns to the circuit court clerk. The clerk shall preserve the poll lists for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 120. IC 3-11-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who:

- (1) is a voter with disabilities; or

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(2) is unable to read or write English;
may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board ~~or absentee voter board~~ stating that, to the best of the designated person's knowledge, the voter:

- (1) is a voter with disabilities or is unable to read or write English;
and
- (2) has requested the designated person to assist the voter in voting under this section.

(c) The person designated may then accompany the voter into the voting booth and assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the voting machine or electronic voting system.

SECTION 121. IC 3-11-10-16, AS AMENDED BY P.L.209-2003, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered and ~~after December 31, 2003,~~ is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. **The judges shall mark the poll list to indicate**

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that the voter has voted by absentee ballot. If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.

SECTION 122. IC 3-11-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. The ~~precinct election board may hear and determine a challenge under this section as though the ballot was cast by the voter in person.~~ **regarding the absentee ballot must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**

SECTION 123. IC 3-11-10-24.5, AS ADDED BY P.L.209-2003, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24.5. (a) This section applies after December 31, 2005.

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ~~ballots~~ **votes** for a single office.

SECTION 124. IC 3-11-10-26, AS AMENDED BY P.L.209-2003, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

- (1) in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2);** or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) **An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days**

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before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

~~(f)~~ (f) Notwithstanding subsection ~~(d)~~, (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

~~(f)~~ (g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

~~(g)~~ (h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 125. IC 3-11-10-26.2, AS ADDED BY P.L.69-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.2. (a) A:

- (1) county election board; or
- (2) board of elections and registration;

of a county subject to IC 3-11.5 may adopt a resolution to authorize the circuit court clerk to use an electronic voting system for voting by

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absentee ballot in the office of the circuit court clerk **or board of elections and registration.**

(b) A resolution adopted under this section must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must provide procedures **to do the following:**

(1) Secure absentee votes cast on an electronic voting system that provide protection comparable to the protection provided to absentee votes cast by paper ballot.

(2) **Compare the signature on an absentee ballot application with the applicant's signature on the applicant's voter registration application.**

(3) **Ensure that an invalid ballot (as determined under IC 3-11.5) is not counted.**

(d) A resolution adopted under this section may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the circuit court clerk may use as many electronic voting machines for recording absentee votes as the clerk considers necessary, subject to the resolution adopted by the board.

(f) Notwithstanding any other law, an absentee ballot voted on an electronic voting system under this section is not required to bear the seal, signature, and initials prescribed by section 27 of this chapter.

(g) If a resolution is adopted under this section, the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk under section 26 of this chapter.

SECTION 126. IC 3-11-10-28, AS AMENDED BY P.L.209-2003, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present additional information under IC 3-7-33-4.5. If the voter does not present the

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required additional information before receiving the absentee ballot, the absentee ballot shall be processed ~~as a provisional ballot under IC 3-11-7~~ **in accordance with section 4.5(d) of this chapter.**

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

- (1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and
- (2) stating the address and hours of the county voter registration office.

SECTION 127. IC 3-11-10-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) Each county election board shall appoint absentee voter boards.

(b) The absentee voter boards must consist of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board. If a special election is held for a local public question, the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution to provide that the party membership requirement does not apply to absentee voter boards appointed to conduct the special election. A resolution adopted under this subsection may not be repealed and expires the day after the special election.

(c) An otherwise qualified person is eligible to serve on an absentee voter board unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election, except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:

- (1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and**

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(2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee ballots within the election district.

SECTION 128. IC 3-11-10-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Not later than noon ten (10) days before absentee voting begins under section 26 of this chapter, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of absentee voter boards to be appointed under section 36 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under section 26 of this chapter. The county election board shall make the appointments as recommended. If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 36 of this chapter.**

SECTION 129. IC 3-11-11-1.2, AS ADDED BY P.L.209-2003, SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) This section applies after December 31, 2005.

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program to notify a voter of the effect of casting multiple ~~ballots~~ **votes** for a single office on a paper ballot.

SECTION 130. IC 3-11-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who by accident or mistake spoils, defaces, or mutilates the voter's ballot may, by returning the ballot to the poll clerks or assistant poll clerks and satisfying them that the spoiling, defacing, or mutilation was not intentional, receive another ballot. The poll clerks or assistant poll clerks shall make a record of the fact on the poll list, and the ballot shall then be marked "VOID" by the precinct election board in the presence of the voter and returned with the other election materials as required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 131. IC 3-11-13-18, AS AMENDED BY P.L.209-2003, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) This subsection does not apply to an optical scan voting system and expires January 1, 2006. Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot

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cards retained by the precinct election officers. The following information must be printed on the second stub:

- (1) The name of the political subdivision holding the election.
- (2) The designation of the election.
- (3) The date of the election.
- (4) The instructions to the voters.
- (5) In a primary election, the name of the political party.

(b) The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

(c) The ballot cards provided under subsection (b) must be:

- (1) designed to be folded; or
- (2) accompanied by a secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.

(d) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. **Except as provided in subsection (e),** a write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

(e) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 132. IC 3-11-13-23, AS AMENDED BY P.L.26-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The two (2) appointed members of the county election board shall observe the test required by section 22 of this chapter and certify the test as meeting the requirements of section 22 of this chapter.

(b) A copy of the certification of the test conducted under section 22(b) of this chapter shall be ~~transmitted to the election division immediately, and another copy shall be~~ filed with the election returns.

(c) The test must be open to representatives of political parties, candidates, the media, and the public.

SECTION 133. IC 3-11-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) Each application must be in writing, sworn to or affirmed by the applicant, under the penalties of perjury, on a form prescribed by the commission, and contain must satisfy the following information requirements:**

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- (1) **Provide** the name and address of the vendor submitting the application.
- (2) **Provide** the telephone number of the vendor.
- (3) **Provide the name, address, and telephone number of the individual representing the vendor regarding the application.**
- (4) **Provide the type and model name and number of the submitted voting system, stating the hardware, firmware, and software version numbers of the system.**
- (5) **State whether the voting system is a direct record electronic voting system or an optical scan ballot card voting system.**
- ~~(4)~~ (6) **Provide** a description of the voting system and its capabilities, including **the following**:
 - (A) Photographs.
 - (B) Engineering drawings. ~~and~~
 - (C) Technical documentation.
 - (D) Fail-safe and emergency backup information.**
 - (E) Environmental requirements for storage, transportation, and operation.**
- ~~(5)~~ (7) **Include** an agreement to pay for the total costs of the examination.
- (8) Provide documentation of the escrow of the voting system's software, firmware, source codes, and executable images with an escrow agent approved by the election division.**
- (9) Provide a functional description of any software components.**
- (10) Provide schematics or flowcharts identifying software and data file relationships.**
- (11) Describe the type of maintenance offered by the vendor.**
- (12) Provide the names, addresses, and telephone numbers of the vendor's maintenance providers.**
- (13) Provide a description of the training courses offered by the vendor for the voting system.**
- (14) Provide user manuals, operator and system manuals, and problem solving manuals.**
- (15) Provide a statement of the current and future interchangeability of all subcomponents of the voting system.**
- (16) Provide documentation from all independent testing authorities that have examined the system.**
- (17) Provide documentation from all election jurisdictions that have previously approved the system.**

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(18) Pay the application fee required under section 4 of this chapter.

(b) If an application does not include any of the applicable requirements listed in subsection (a), those requirements must be filed with the election division before the application may be considered by the commission.

SECTION 134. IC 3-11-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. A vendor ~~may~~ **shall** reapply to the election division for reexamination of a voting system if the commission determines that an improvement or change to a voting system requires a reexamination of that system.

SECTION 135. IC 3-11-15-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 49. ~~(a) This section applies to a voting system approved by the commission after July 1, 1997.~~

~~(b) Before a vendor markets, sells, leases, installs, or permits the implementation of a voting system in Indiana, the vendor shall provide for the escrow of system software and source codes in accordance with an agreement between the vendor and the election division.~~ **commission must have approved the vendor's application for the approval of the voting system.**

SECTION 136. IC 3-11-15-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 51. (a) This section applies to any voting system change.

(b) To implement the requirements imposed under IC 3-11-7-15 and IC 3-11-7.5-5 for a vendor or county election board to report a proposed improvement or change to a voting system to the commission and for the commission to determine if the improvement or change may be **marketed, sold, leased, installed, or** implemented, the election division shall review and recommend whether the commission should approve proposed software, **firmware**, or hardware change introduced after the system has completed qualification in accordance with this chapter.

SECTION 137. IC 3-11-15-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 57. (a) This section applies to a proposed change in a voting system that is not an emergency voting system change.

(b) The vendor or a county election board shall file a written request for the proposed change with the election division under IC 3-11-7-15 or IC 3-11-7.5-5. The request must include the following information:

- (1) The reasons for the proposed change.
- (2) The schedule for making the proposed change, if approved.

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- (3) A description of the files that will be changed, including directory information such as the file name and the size of the file (in bytes) both before and after the change is made.
- (4) A brief summary of the changes to be made in each of the files.
- (5) The name and title of each technician who will make the change.
- (6) If the technician is acting for a vendor or other company, the name of the company, and the telephone number and facsimile machine number of the company.
- (c) The commission may approve the proposed change after:
 - (1) the election division (or a competent person designated by the commission to act on behalf of the election division) reports to the commission that the vendor has tested the proposed changes on a simulated (mockup) version of the approved system; ~~and~~
 - (2) the vendor supplies the results of this test and makes a similar demonstration to the election division; **and**
 - (3) the vendor files an affidavit with the election division certifying that the proposed change has not yet been marketed, sold, leased, installed, or implemented in Indiana.**

SECTION 138. IC 3-11.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this article, "central location for counting absentee ballots" refers to a location for counting absentee ballots that a county election board ~~in a pilot county~~ must establish under ~~IC 3-11.5-4-3~~ **this article.**

SECTION 139. IC 3-11.5-4-13, AS AMENDED BY P.L.1-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;
 - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.

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- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.
- (7) The ballot envelope contains more than one (1) ballot of any kind **for the same office or public question.**
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.
- (9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(f) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 140. IC 3-11.5-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The vote of an absentee voter may be challenged at the polls for the reason that the

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absentee voter is not a legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 or section 8 of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) ~~The precinct election board may hear and determine a challenge under this section as though the ballot was cast by the voter in person.~~ **must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**

SECTION 141. IC 3-11.5-4-22, AS AMENDED BY P.L.14-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Except as provided in subsection (b), each county election board shall appoint:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

(b) Notwithstanding subsection (a), a county election board may appoint, by a unanimous vote of the board's members, only one (1) absentee ballot courier if the person appointed is a voter of the county.

(c) An otherwise qualified person is eligible to serve on an absentee voter board or as an absentee ballot counter or a courier unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the

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result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:

(1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and

(2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee ballots within the election district.

SECTION 142. IC 3-11.5-4-23, AS AMENDED BY P.L.38-1999, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Not later than noon ten (10) days before absentee voting begins under IC 3-11-10-26, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

to be appointed under section 22 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under IC 3-11-10-26. The county election board shall make the appointments as recommended.

(c) If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 22 of this chapter.**

SECTION 143. IC 3-11.5-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 144. IC 3-11.5-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 145. IC 3-11.5-5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A county

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election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 146. IC 3-11.5-6-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1**.

SECTION 147. IC 3-11.5-6-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 148. IC 3-11.5-6-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 149. IC 3-11.7-1-5, AS AMENDED BY P.L.209-2003, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Provisional ballots for:

- (1) Electors for President and Vice President of the United States;
- (2) United States Senator;
- (3) United States Representative;
- (4) all state offices; and
- (5) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana supreme court or the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets, independent candidates, and

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public questions.

(c) **Except as provided in subsection (e)**, ballots prepared under this section must provide space for the provisional voter to cast a write-in ballot for each office.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk or the clerk's authorized deputy not later than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The provisional ballots shall be delivered in the same manner that other official ballots are delivered.

(e) **Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.**

(f) **This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.**

SECTION 150. IC 3-11.7-1-6, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) All provisional ballots ~~other than those described in section 5 of this chapter~~ shall be prepared and printed under the direction of each county election board.

(b) After completing the estimate required by section 4 of this chapter, the county election board shall immediately prepare the ballots and have the ballots printed.

(c) **Except as provided in subsection (e)**, ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk not later than:

- (1) forty-five (45) days before a general, primary, or municipal election; or
- (2) thirty-two (32) days before a special election.

(e) **Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.**

(f) **This subsection applies to the printing of provisional ballots**

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for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 151. IC 3-11.7-3-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election **in any part of the county**, except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election **in any part of the county**, except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

SECTION 152. IC 3-11.7-3-5, AS AMENDED BY P.L.209-2003, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. If a county chairman fails to make any recommendations not later than the deadline specified under section 4 of this chapter, the county election board may appoint any voters of the county **who comply with section 2 of this chapter.**

SECTION 153. IC 3-11.7-5-1, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) **Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9**, all provisional ballots must be counted by not later than noon on the Monday following the election.

SECTION 154. IC 3-11.7-5-24, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 155. IC 3-11.7-5-26, AS ADDED BY P.L.126-2002,

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SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 156. IC 3-11.7-5-27, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this section until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 157. IC 3-12-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1**. However, if the election is contested, then the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

(b) When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

(c) A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 158. IC 3-12-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) After the voting totals have been taken and certified by a precinct election board under section 2(c) of this chapter, the inspector shall:

- (1) seal each automatic tabulating machine used in the precinct;
- (2) place all ballot cards that have been counted in the container

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provided for that purpose; and

(3) seal the container into which the ballot cards have been placed;

in the presence of the precinct election board. The automatic tabulating machine may not be moved from the polls after the polls are closed until collected.

(b) The inspector and judge of the opposite political party shall deliver:

(1) the certification of the vote totals and one (1) copy of the certificate prepared under section 2(c) of this chapter for the circuit court clerk;

(2) the certificate of the vote totals prepared under section 2(c) of this chapter for the news media;

(3) the container in which ballot cards have been placed under subsection (a); and

(4) the unused, uncounted, and defective ballot cards and returns; to the circuit court clerk.

(c) The inspector and judge of the opposite political party shall deliver the certificates and the list of voters to the county election board by midnight on election day. However, if:

(1) a ballot card voting system failed;

(2) the failure of the system was reported as required by this title;

(3) paper ballots were used in place of the system; and

(4) the use of the paper ballots caused a substantial delay in the vote counting process;

then the certificates, the list of voters, and the tally papers shall be delivered as soon as possible.

(d) Upon delivery of the container to the circuit court clerk under subsection (c), the inspector shall take and subscribe an oath before the clerk stating that the inspector:

(1) closed and sealed the container in the presence of the judges and poll clerks;

(2) securely kept the ballot cards in the container;

(3) did not permit any person to open the container or to otherwise touch or tamper with the ballot cards; and

(4) has no knowledge of any other person opening the container.

(e) Each oath taken under subsection (d) shall be filed in the circuit court clerk's office with other election papers.

(f) Upon completion of the counting of the votes by a precinct election board under section 2(c) of this chapter or at a central location, all ballot cards shall be arranged by precincts and kept by the circuit court clerk for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

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The clerk shall determine the final disposition of all voted ballot cards.

SECTION 159. IC 3-12-4-13, AS AMENDED BY P.L.199-2001, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county election board has tabulated the vote:

- (1) the canvass sheets used by the board; and
- (2) the certificates, poll lists, and tally papers returned by each inspector in the county;

shall be delivered to the circuit court clerk. The clerk shall file and preserve all the material in the clerk's office as provided in IC 3-10-1-31 or IC 3-10-1-31.1.

SECTION 160. IC 3-12-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars (\$100).

(b) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office**. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office**. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If a petition is joint, a joint bond may be furnished.

(e) The costs of a recount may include the following:

- (1) Compensation of recount commissioners.
- (2) Compensation of additional employees required to conduct the recount, including overtime payments to regular employees who are eligible to receive such payments.
- (3) Postage and telephone charges directly related to the recount.

(f) The costs of a recount may not include the following:

- (1) General administrative costs.
- (2) Security.
- (3) Allowances for meals or lodging.

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(g) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance. If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(h) Any unexpended balance remaining in a deposit after payment of all costs of the recount and the refund, if a refund is made, shall be deposited in the county general fund.

SECTION 161. IC 3-12-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly.

(d) If the court finds that:

- (1) a mistake in the printing or distribution of the ballots **used in the election;**
- (2) a mistake in the programming of a voting machine or an electronic voting system; **or**
- (3) a malfunction of a voting machine or an electronic voting system; **or**

(4) the occurrence of a deliberate act or series of actions;

makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

- (1) ballots containing the printing mistake or distributed by mistake were cast;
- (2) a mistake occurred in the programming of a voting machine or an electronic voting system; **or**
- (3) a voting machine or an electronic voting system malfunctioned; **or**

(4) the deliberate act or series of actions occurred.

SECTION 162. IC 3-12-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The fiscal body of a political subdivision that receives notice under section 3 of this

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chapter shall resolve the tie vote by electing a person to fill the office ~~at its organizational meeting in January~~ **not later than December 31** following the election at which the tie vote occurred. The fiscal body shall select one (1) of the candidates who was involved in the tie vote to fill the office. **If a tie vote has occurred for the election of more than one (1) at-large seat on a legislative or fiscal body, the fiscal body shall select the number of individuals necessary to fill each of the at-large seats for which the tie vote occurred.** However, a member of a fiscal body who runs for reelection and is involved in a tie vote may not cast a vote under this section.

(b) The executive of the political subdivision (other than a town) may cast the deciding vote to break a tie vote in a fiscal body acting under this section. The clerk-treasurer of the town may cast the deciding vote to break a tie vote in a town fiscal body acting under this section.

SECTION 163. IC 3-12-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state recount commission shall conduct recount proceedings under IC 3-12-11 resulting from:

- (1) a presidential primary election;
- (2) the nomination of a candidate to a federal, state, or legislative office in a primary election; or
- (3) an election for a federal, state, or legislative office.

(b) The state recount commission shall conduct contest proceedings under IC 3-12-11 resulting from:

- (1) a presidential primary election;
- (2) the nomination of a candidate to a federal, state, or legislative office in a primary election; or
- (3) an election for a **federal, state, or legislative office.** ~~other than governor or lieutenant governor.~~

SECTION 164. IC 3-12-10-12, AS AMENDED BY P.L.176-1999, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The expenses of a recount conducted by the state recount commission shall be paid from the state recount fund following the commission's determination of whether a full or partial refund of the cash deposit should be granted under IC 3-12-11-10.

(b) The expenses of a contest conducted by the state recount commission shall be paid from the state recount fund.

(c) **Notwithstanding subsections (a) and (b), the expenses incurred by a party to a recount or contest for:**

- (1) **the appearance of an individual; or**

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(2) the copying or production of documents;
in response to a subpoena approved by the state recount commission shall be borne by that party and are not subject to reimbursement under this chapter.

(d) A person (other than a party to a recount or contest) who claims reimbursement of expenses described by subsection (a) or (b) must submit a claim to the state recount commission not later than noon sixty (60) days after the commission adopts a final order concerning the recount or contest. If the commission approves the claim, the treasurer of state shall issue a warrant to the person in accordance with IC 5-13-5.

~~(d)~~ **(e)** There is appropriated to the state recount fund from the state general fund an amount sufficient for the state recount commission's use in the payment of expenses under this section.

SECTION 165. IC 3-12-11-10, AS AMENDED BY P.L.176-1999, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum amount of the cash deposit is one hundred dollars (\$100). The cash deposit shall be deposited in the state recount fund.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for the nomination or**

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(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for the nomination or office.**

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit furnished by that petitioner shall be returned to that petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be returned to the depositor in the following manner:

(1) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance.

(2) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(3) Any unexpended balance remaining after the provision of subdivision (1) has been satisfied shall be deposited in the state recount fund.

SECTION 166. IC 3-12-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

(1) make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;

(2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and

(3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that:

(1) a mistake was made in the printing or distribution of ballots

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used in the election;

(2) a mistake was made in the programming of a voting machine or an electronic voting system;

(3) a voting machine or an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred;

that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that: ~~ballots~~

(1) **ballots** containing the printing mistake or ~~(2)~~ distributed by mistake were cast;

(2) a mistake occurred in the programming of a voting machine or an electronic voting system;

(3) a voting machine or an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred.

SECTION 167. IC 3-12-11-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19.5. As required under 3 U.S.C. 5, any recount or contest proceeding concerning the election of presidential electors must be concluded not later than six (6) days before the ~~third Tuesday in December following the general election at which the electors were elected~~: **time fixed by federal law for the meeting of the electors.**

SECTION 168. IC 3-13-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The selection of a person as a candidate under this chapter is not effective unless:

(1) the person's written consent is obtained and filed:

(A) in the office in which certificates and petitions of nomination must be filed; and

(B) **not later than** when the certificate is filed; and

(2) the candidate has complied with any requirement under IC 3-8-1-33 to file a statement of economic interests.

SECTION 169. IC 3-13-7-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) This section does not apply to a school board office.**

(b) This section applies to a vacancy in an elected office in a political subdivision:

(1) in which each candidate is required by statute to be placed

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on the ballot as a nonpartisan candidate for the office; and
 (2) for which this article does not otherwise provide a method for filling.

(c) The vacancy shall be filled as follows:

(1) The remaining members of the body shall fill the vacancy by a majority of the votes of the remaining members of the body.

(2) If there are no remaining members of the body, the county executive of the county containing the greatest percentage of the population of the political subdivision shall fill the vacancy in the manner provided by section 2 of this chapter.

SECTION 170. IC 3-13-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A vacancy in the office of township trustee:

(1) not covered by section 1 of this chapter; or

(2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

SECTION 171. IC 3-13-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A vacancy on the township board of a township:

(1) not covered by section 1 of this chapter; or

(2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each commissioner at least ten

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(10) days before the meeting.

SECTION 172. IC 3-13-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a) This section does not apply to the office of a judge.**

(b) Subject to sections 13 through 17 of this chapter, the chief deputy employee of the office that is vacant assumes the duties of that office for the period of time between when a vacancy occurs and when the office is filled under this chapter in a **circuit**, county, city, ~~or town, office, or in the office of township trustee.~~ **office.**

SECTION 173. IC 3-13-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a) This section does not apply to the office of a judge.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in a **circuit or** county office, or the chief deputy employee declines or is ineligible to serve, the board of county commissioners shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

(c) If a circuit contains more than one (1) county, the boards of county commissioners of the counties shall meet in joint session at the county seat of the county that contains the greatest percentage of population of the circuit to appoint an individual under this section.

SECTION 174. IC 3-13-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. In accordance with section 12 of this chapter, if a chief deputy employee does not exist in the office of **clerk or** clerk-treasurer of a city or town, or the chief deputy employee declines or is ineligible to serve, the mayor of the city or the president of the town council shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

SECTION 175. IC 3-13-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. **(a) This section does not apply to the office of a judge or a township board member.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in ~~the a township office of township trustee,~~ or the chief deputy employee declines or is ineligible to serve, the chairman of the township board assumes the duties of the township ~~trustee office~~ **office** until the office is filled under this chapter.

SECTION 176. IC 3-14-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A person not

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authorized by this title who recklessly:

- (1) enters the polls;
- (2) enters within the railing leading from the challenge window or door to the entrance of the polls without having been passed by the challengers or having been sworn in; or
- (3) remains within the polls or within ~~fifty (50) feet of the entrance to the polls chute~~ in violation of IC 3-11-8-15 or IC 3-11-8-16;

commits a Class A misdemeanor.

SECTION 177. IC 3-14-3-16, AS AMENDED BY P.L.66-2003, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

- (1) on election day within:
 - (A) the polls; or
 - (B) ~~fifty (50) feet of the entrance to the polls; chute~~; or
- (2) within an area in the office of the circuit court clerk **or a satellite office of the circuit court clerk established under IC 3-11-10-26.3** used by an absentee voter board to permit an individual to cast an absentee ballot;

commits a Class A misdemeanor.

SECTION 178. IC 4-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The salary of the elected officials of the state is as follows:

- (1) For the governor, ~~the following salary:~~
 - (A) ~~Before January 8, 2001, seventy-seven thousand two hundred dollars (\$77,200) per year.~~
 - (B) ~~After January 7, 2001, ninety-five thousand dollars (\$95,000) per year.~~
- (2) For the lieutenant governor, ~~the following salary:~~
 - (A) ~~Before January 8, 2001, sixty-four thousand dollars (\$64,000) per year.~~
 - (B) ~~After January 7, 2001, seventy-six thousand dollars (\$76,000) per year.~~

However, the lieutenant governor is not entitled to receive per diem allowance for performance of duties as president of the senate.

- (3) For the secretary of state, ~~the following salary:~~

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- (A) Before January 1, 1999, forty-six thousand dollars (\$46,000) per year.
- (B) After December 31, 1998, sixty-six thousand dollars (\$66,000) per year.
- (4) For the auditor of state, the following salary:
- (A) Before December 1, 1998, forty-six thousand dollars (\$46,000) per year.
- (B) After November 30, 1998, sixty-six thousand dollars (\$66,000) per year.
- (5) For the treasurer of state, the following salary:
- (A) Before February 10, 1999, forty-six thousand dollars (\$46,000) per year.
- (B) After February 9, 1999, sixty-six thousand dollars (\$66,000) per year.
- (6) For the attorney general, the following salary:
- (A) Before January 1, 1999, fifty-nine thousand two hundred dollars (\$59,200) per year.
- (B) After December 31, 1998, seventy-nine thousand four hundred dollars (\$79,400) per year.
- (7) For the clerk of the supreme court, the following salary:
- (A) Before January 1, 1999, thirty-eight thousand dollars (\$38,000) per year.
- (B) After December 31, 1998, before January 1, 2007, sixty thousand dollars (\$60,000) per year.
- (8) For the state superintendent of public instruction, the following salary:
- (A) Before January 1, 1999, sixty-three thousand one hundred dollars (\$63,100) per year.
- (B) After December 31, 1998, seventy-nine thousand four hundred dollars (\$79,400) per year.

SECTION 179. IC 4-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The bond of the auditor of state shall be fixed at one hundred thousand dollars (\$100,000).

(b) The bond of the secretary of state **shall be fixed** at fifty thousand dollars (\$50,000).

(c) The bond of the attorney general **shall be fixed** at fifty thousand dollars (\$50,000). **and the clerk of the Supreme Court, at ten thousand dollars (\$10,000).**

SECTION 180. IC 4-2-6-8, AS AMENDED BY P.L.44-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The following persons shall file a

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written financial disclosure statement:

- (1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.
 - (2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.
 - (3) Any person who is the appointing authority of an agency.
 - (4) The director of each division of the department of administration.
 - (5) Any purchasing agent within the procurement division of the department of administration.
 - (6) An employee required to do so by rule adopted by the commission.
- (b) The statement shall be filed with the commission as follows:
- (1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).
 - (2) **If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1),** before filing a declaration of candidacy under IC 3-8-2 or IC 3-8-4-11, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices **(unless the statement has already been filed when required under IC 3-8-4-11).**
 - (3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.
 - (4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

- (1) The name and address of any person known:
 - (A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and
 - (B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one

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hundred dollars (\$100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars (\$5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional practice.

(B) The nature of the business.

(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.

(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.

(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000). A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure

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chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 181. IC 5-6-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The secretary of state, the auditor of state, the treasurer of state, ~~the clerk of the supreme court~~, the sheriff of the supreme court, and every clerk of the circuit court may appoint deputies, when necessary or when required, if provision shall have been made for paying such deputies for their services from the funds of the state or of the county or from fees received for their services.

(b) Any such officer may require any deputy so appointed to give bond, in such amount as may be prescribed by law or as may be fixed by such officer, conditioned for the proper and faithful discharge of all ~~of his~~ official duties as such deputy, and for the safe accounting of all funds received by ~~him~~ **the deputy** or entrusted to ~~his~~ **the deputy's** care, control, or management.

SECTION 182. IC 5-8-3.5-1, AS AMENDED BY P.L.26-2000, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

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(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, ~~or attorney general. or clerk of the supreme court.~~

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge of a circuit, city, county, probate, superior, town, or township small claims court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

SECTION 183. IC 5-14-3-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

(1) Secretary of state.

(2) Auditor.

(3) Treasurer.

(4) Attorney general.

(5) Superintendent of public instruction.

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~~(6) Clerk of the Supreme Court.~~

However, each state office described in subdivisions (1) through ~~(6)~~ (5) **and the judicial department of state government** may use the computer gateway administered by the intelenet commission established under IC 5-21-2, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

(1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).

(2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:

(A) the third party; or

(B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

(1) Unauthorized enhanced access to public records.

(2) Unauthorized alteration of public records.

(3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the intelenet commission established under IC 5-21-2, except as permitted by the data process oversight commission established under IC 4-23-16-1.

SECTION 184. IC 6-1.1-19-4.5, AS AMENDED BY P.L.66-2003, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) With respect to every appeal petition that is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter and that includes a request for emergency financial relief (except an appeal petition described in section 4.7 of this chapter), the tax control board shall, after having made the study of the appeal petition and related materials that the tax control board considers necessary, make an appropriate recommendation to the department of local government finance. If the appeal petition requests an excessive tax levy under subsection (c), the tax control board shall expedite the board's review as necessary to permit the referendum to be conducted without a special election. In

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respect of the appeal petition, the tax control board may make to the department of local government finance any of the recommendations described in section 4.4(a) of this chapter, subject to the limitations described in section 4.4(b) of this chapter.

(b) In addition, if the tax control board concludes that the appellant school corporation cannot, in the ensuing calendar year, carry out the public educational duty committed to the appellant school corporation by law if, for the ensuing calendar year, the appellant school corporation does not receive emergency financial relief, the tax control board may recommend to the department of local government finance that the order of the county board of tax adjustment or the county auditor in respect of the budget, tax levy, or tax rate of the appellant school corporation be approved, or disapproved and modified, as specified in the tax control board's recommendation and that the appellant school corporation receive emergency financial relief from the state, on terms to be specified by the tax control board in the board's recommendation, in the form of:

- (1) a grant or grants from any funds of the state that are available for such a purpose;
- (2) a loan or loans from any funds of the state that are available for such a purpose;
- (3) permission to the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan;
- (4) an advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations;
- (5) permission to the appellant school corporation to:
 - (A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's cumulative building fund; or
 - (B) use, for general fund purposes, any unobligated balance in the appellant school corporation's cumulative building fund and the proceeds of any levy made or to be made by the appellant school corporation for the appellant school corporation's cumulative building fund;
- (6) permission to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds; or
- (7) a combination of the emergency financial relief described in subdivisions (1) through (6).

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(c) In addition to, or in lieu of, any recommendation that the tax control board may make under this section, the tax control board may recommend that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year under this subsection. The recommendation may not be put into effect until a majority of the individuals who vote in a referendum that is conducted in accordance with the following requirements approves the appellant school corporation's making a referendum tax levy for the ensuing calendar year:

(1) Whenever:

(A) the tax control board recommends to the department of local government finance that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year if a majority of the individuals voting in a referendum held in the appellant school corporation approves the appellant school corporation's making a referendum tax levy;

(B) the department of local government finance gives the board's written approval of the recommendation; and

(C) the appellant school corporation requests that the tax control board take the steps necessary to cause a referendum to be conducted;

the tax control board shall proceed in accordance with this subsection.

(2) The question to be submitted to the voters in the referendum must read as follows:

"For the __ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed _____ (insert amount) cents (\$0. __) (insert amount) on each one hundred dollars (\$100) of assessed valuation and that is in addition to the school corporation's normal tax rate?".

The voters in a referendum may not approve a referendum tax levy that is imposed for more than seven (7) years. However, a referendum tax levy may be reimposed or extended under this subsection.

(3) The tax control board shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum to the county election board of each county in which any part of the appellant school corporation lies. Each county clerk shall, upon receiving the question certified by the tax control board, call a meeting of the county election board to make arrangements for the referendum.

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The referendum shall be held in the next primary or general election in which **all the registered voters who are** residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the tax control board, the referendum shall be held at a special election to be conducted not less than ninety (90) days after the question is certified to the circuit court clerk or clerks by the tax control board. The appellant school corporation shall advise each affected county election board of the date on which the appellant school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the appellant school corporation. The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum. **If a primary election, general election, or special election is held during the sixty (60) days preceding or following the special election described in this subdivision and is held in an election district that includes some, but not all, of the school corporation, the county election board may also adopt orders to specify when the registration period for the elections cease and resume under IC 3-7-13-10.** Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all of the costs of holding the referendum.

(4) Each county election board shall cause the question certified to the circuit court clerk by the tax control board to be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall also cause an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

(5) The individuals entitled to vote in the referendum are all of the registered voters resident in the appellant school corporation.

(6) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum

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have been counted, certify the results of the referendum to the tax control board. Upon receiving the certification of all of the votes cast in the referendum, the tax control board shall promptly certify the result of the referendum to the department of local government finance. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the department of local government finance, upon being notified in the manner described in this subsection of the result of the referendum, shall take prompt and appropriate steps to notify the appellant school corporation that the appellant school corporation is authorized to collect, for the calendar year that next follows the calendar year in which the referendum is held, a referendum tax levy not greater than the amount approved in the referendum. The referendum tax levy may be imposed for the number of calendar years approved by the voters following the referendum for the school corporation in which the referendum is held. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination of the school corporation's maximum general fund tax levy under this chapter and IC 21-3-1.7. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the appellant school corporation may not make any tax levy for its general fund other than a normal tax levy, and another referendum under this subsection may not be held for a period of one (1) year after the date of the referendum.

(d) With respect to any school corporation to which a loan or advance of state funds is made under this section, or for which such a loan or an advance is recommended, for purposes other than the purpose specified in section 4.7 of this chapter, the tax control board may recommend to the department of local government finance that the school corporation be authorized, for a specified calendar year, and solely for the purpose of enabling the school corporation to repay the loan or advance, to collect an excessive tax levy. A recommendation under this subsection must specify the amount of the recommended excessive tax levy. Upon receiving the recommendation from the tax control board, and without any other proceeding, the department of local government finance may authorize the school corporation, for a specified calendar year, to make an excessive tax levy in accordance

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with the recommendation of the tax control board or in accordance with a modification of the recommendation that the department of local government finance determines is proper. Whenever the department of local government finance exercises the power given to the department of local government finance under this subsection, the department of local government finance shall, in the department's order to the affected school corporation, specify the amount of the authorized excessive tax levy and take appropriate steps to ensure that so much of the proceeds of the excessive tax levy as should be used for loan repayment purposes is not used for any other purpose. The department of local government finance may not exercise the power described in this subsection to authorize any school corporation to collect an excessive tax levy for more than one (1) calendar year in any period of four (4) consecutive calendar years.

SECTION 185. IC 9-14-3-5, AS AMENDED BY P.L.261-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), ~~(c)~~, ~~or~~ (d), **or (e)**, the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be submitted in writing to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau shall not disclose:

- (1) the Social Security number;
- (2) the federal identification number;
- (3) the driver's license number;
- (4) the digital image of the driver's license applicant;
- (5) a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3; or
- (6) medical or disability information;

of any person except **as provided in subsection (c)**.

(c) The bureau may disclose any information listed in subsection (b):

- (1) to a law enforcement officer; ~~or~~
- (2) **to** an agent or a designee of the department of state revenue; ~~or~~
- (3) for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9); **or**
- (4) **for voter registration and election purposes required under IC 3-7 or IC 9-24-2.5.**

~~(c)~~ (d) As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant

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for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

~~(d)~~ (e) The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection ~~(c)~~ (d)) to sign a voter registration application, except as authorized under IC 3-7-14.

SECTION 186. IC 9-24-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) This section applies after December 31, 2005.**

(b) The standards set forth in IC 3-5-5 to determine the residence of an individual applying to become a voter apply to the determination of the residence of an individual applying for a license under this article.

(c) This section does not prevent the commission from issuing a license under this article to an individual who is:

(1) not required by this article to reside in Indiana to receive the license; and

(2) otherwise qualified to receive the license.

SECTION 187. IC 20-4-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. (a) Members of the metropolitan board of education shall be elected by the registered voters of the metropolitan school district at the primary elections held biennially in the state commencing with the next primary election which is held more than sixty (60) days after the creation of the metropolitan school district as provided ~~herein~~ in this chapter.** Nominations for each member of the board of education shall be made by a petition signed by the nominee and by ten (10) registered voters residing in the same board member district as the nominee. Such petition shall be filed not earlier than the date on which a petition of nomination may first be filed under IC 3-8-6-10 and not later than noon on the last date provided by IC 3-8-2-4 for the filing of a declaration of candidacy for the primary election with the clerk of the circuit court in each county in which such metropolitan school district is located.

(b) Nominees for school board members shall be listed on the primary election ballot in the form prescribed by IC 3-10-1-19, by board member districts without party designation. Such ballot shall state ~~thereon~~ the number of board members to be voted upon and the maximum number which may be elected from each board member district in compliance with section 15 of this chapter. No ballot shall be valid where more than such maximum number are voted upon from any

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such board member district. The election boards in the various precincts and in the county or counties serving at each primary election shall conduct the election for school board members. Each registered voter may vote in such school board election without otherwise voting in the primary election.

(c) Voting and tabulation of votes shall be conducted in the same manner as voting and tabulation in primary elections are conducted, and the candidates having the greatest number of votes shall be elected. If more than the maximum number which may be elected from any board member district as provided in section 15 of this chapter are among those having the greatest number of votes, the lowest of those candidates from such board member district in excess of such maximum number shall be eliminated in determining the candidates who are elected. In the event of a tie vote for any of said candidates, the judge of the circuit court in the county where the majority of the registered voters of the metropolitan school district reside shall select one (1) of said candidates who shall be declared and certified elected.

(d) If at any time after the first board member election there shall occur a vacancy on the board for any reason including ~~but not limited to~~ the failure of the sufficient number of petitions for candidates being filed, and whether the vacating member was elected or appointed, the remaining members of the metropolitan board of education, whether or not a majority of the board, shall by a majority vote fill such vacancy by appointing a person from the board member district from which the person who vacated the board membership was elected, or if such person was appointed, the board member district from which the last elected predecessor of such person was elected. In the event of a tie vote among the remaining members of the board or their failure to act within thirty (30) days after any such vacancy occurs, it shall be the duty of the judge of the circuit court in the county where the majority of registered voters of the metropolitan school district reside to make such appointment. A successor to such appointive board member shall be elected at the next primary election which is held more than sixty (60) days after any elected board member vacates membership on the board; or at the primary election held immediately prior to the end of the term for which such vacating member was elected, whichever is sooner. Unless such successor takes office at the end of the term of such vacating member, the member shall serve only for the balance of such term. In any election of a successor board member to fill a vacancy for a two (2) year balance of a term, nominating petitions for school board membership candidacy need not be filed for or with reference to the vacancy. **However, as required by IC 3-11-2-14.5,**

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candidates for at-large seats shall be distinguished on the ballot from candidates for district seats. If there is more than one (1) at-large seat on the ballot due to this vacancy, the elected candidate who receives the lowest number of votes at the election at which such successor is elected shall serve for such two (2) year term.

(e) At the first primary election wherein members of the metropolitan board of education shall be elected under this section, a simple majority of the elected candidates, consisting of those elected candidates who receive the highest number of votes, shall be elected for four (4) year terms and the balance of the elected candidates, consisting of those who received the lowest number of votes, shall be elected for two (2) year terms. All candidates for membership on the metropolitan board of education shall be voted upon by the voters of the entire district, shall be elected for four (4) year terms after the first election and shall take office and assume their duties July 1 following their election.

SECTION 188. IC 33-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **The chief justice of the supreme court shall appoint** a clerk of the supreme court. ~~shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election. The individual appointed serves at the pleasure of the chief justice of the supreme court.~~

(b) The clerk shall execute a bond in ~~the sum of two thousand dollars (\$2,000):~~ **an amount directed by the supreme court.**

(c) **The clerk shall be paid a salary determined by the supreme court.**

(d) **In addition to the powers and duties prescribed by law, the clerk has the powers and duties determined by the supreme court.**

SECTION 189. IC 33-15-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~Such~~ **The clerk at the expiration of his term,** shall hand over to ~~his~~ **the clerk's** successor all the books and papers of ~~his~~ **the** office.

SECTION 190. IC 33-24-4-1, AS ADDED BY SEA 263-2004, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **The chief justice of the supreme court shall appoint** a clerk of the supreme court. ~~shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election. The individual appointed serves at the pleasure of the chief justice of the supreme court.~~

(b) The clerk shall execute a bond in ~~the sum of two thousand~~

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dollars (\$2,000): **an amount directed by the supreme court.**

(c) The clerk shall be paid a salary determined by the supreme court.

(d) In addition to the powers and duties prescribed by law, the clerk has the powers and duties determined by the supreme court.

SECTION 191. IC 33-24-4-7, AS ADDED BY SEA 263-2004, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~At the expiration of the term of office of The clerk of the supreme court the clerk shall deliver to the clerk's successor all the books and papers of the clerk's office.~~

SECTION 192. IC 36-2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

- (1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and
- (2) the district from which the member was elected.

(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) of this chapter. In other counties, all three (3) members of the executive shall be elected by the voters of the whole county.

~~(e) A member of the executive who wants to resign must send written notice to the president of the county fiscal body. The fiscal body shall then declare the member's office vacant.~~

SECTION 193. IC 36-2-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A deputy appointed under this chapter may be required to give a bond, in accordance with IC 5-4-1, for the proper discharge of ~~his~~ **the deputy's** duties. ~~as a deputy.~~

(b) If required under IC 5-4-1-1, a deputy appointed under this chapter shall take the oath required of the officer who appointed him: the deputy.

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SECTION 194. IC 3-10-1-14 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 195. IC 3-8-1-11.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 196. THE FOLLOWING ARE REPEALED [EFFECTIVE DECEMBER 1, 2004]: IC 3-11-2-1; IC 3-11.7-1-5.

SECTION 197. [EFFECTIVE JULY 1, 2004] (a) **This section applies to a referendum conducted under IC 6-1.1-19-4.5 at a primary or general election.**

(b) **Notwithstanding IC 6-1.1-19-4.5(c)(6), if a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, another referendum under IC 6-1.1-19-4.5 may not be held before the earlier of:**

- (1) **the next primary election or general election that occurs at least eleven (11) months after the date of the referendum; or**
- (2) **one (1) year after the date of the referendum.**

(c) **This SECTION expires June 30, 2006.**

SECTION 198. [EFFECTIVE JULY 1, 2004] (a) **Notwithstanding IC 33-15-1-1 or IC 33-24-4-1, both as amended by this act, an individual who is appointed by the governor to fill a vacancy in the office of clerk of the supreme court is entitled to hold the office before January 1, 2007, unless the individual resigns or is removed from office as provided by law.**

(b) **Notwithstanding the repeal of IC 3-8-1-11.5 by this act, an individual appointed by the governor to the office of clerk of the supreme court must satisfy the requirements of IC 3-8-1-11.5 before its repeal.**

(c) **An individual appointed by the governor to the office of clerk of the supreme court must execute a bond in the amount of ten thousand dollars (\$10,000).**

(d) **Notwithstanding IC 5-6-1-1, as amended by this act, the clerk of the supreme court may appoint deputies and require the individuals appointed as deputies to post bond as provided by law in effect at the time any appointment is made.**

(e) **Notwithstanding IC 5-8-3.5-1, as amended by this act, an individual who wants to resign the office of clerk of the supreme court must resign as provided by law in effect at the time the individual wants to resign the office.**

(f) **Notwithstanding IC 5-14-3-3.5, as amended by this act:**

- (1) **"state agency" does not include the office of the clerk of the supreme court; and**
- (2) **the clerk of the supreme court may use the computer**

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gateway administered by the intelenet commission established under IC 5-21-2, subject to the requirements of IC 5-14-3-3.5, as in effect after June 30, 2004.

(g) This SECTION expires January 1, 2007.

SECTION 199. P.L.209-2003, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 7, 2003 (RETROACTIVE)]: SECTION 205. (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than ~~July 1~~, **December 31**, 2003, the commission shall act under IC 3-11-4-5.1 to approve absentee ballot application forms that include a notice that certain voters who registered by mail are required to provide additional personal identification before voting an absentee ballot by mail.

(c) Notwithstanding IC 3-5-4-8, an absentee ballot application form approved by the commission before December 31, 2003, that does not comply with subsection (b) may not be accepted for filing with a county election board after December 31, 2003.

(d) This SECTION expires December 31, 2004.

SECTION 200. P.L.209-2003, SECTION 214, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 214. (a) The definitions set forth in IC 3-5-2 apply to this SECTION.

(b) Subject to subsection (d), a voting machine system may not be used in an election in Indiana after December 31, 2003.

(c) Subject to subsection (e), a punch card voting system may not be used in an election in Indiana after December 31, 2003.

(d) Notwithstanding subsection (b), a voting machine system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all voting machine systems in Indiana before January 1, 2004.

(e) Notwithstanding subsection (c), a punch card voting system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all punch card voting systems in Indiana before January 1, 2004.

(f) Notwithstanding any other statute, a voting machine system or a punch card voting system may not be marketed in Indiana.

(g) Notwithstanding IC 3-11-5, IC 3-11-7, IC 3-11-7.5, and

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IC 3-11-15, the approval or certification of a voting system issued before January 1, 2005, expires October 1, 2005. If a vendor applied for certification of the voting system after January 1, 2004, and applies for recertification of the voting system after January 1, 2005, the application fee under IC 3-11-15-4 is waived if the hardware, software, and firmware of the system is unchanged in the system submitted for recertification under this subsection.

(h) This SECTION expires January 1, 2006.

SECTION 201. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.

(b) Notwithstanding P.L.209-2003, SECTION 212 (expired December 31, 2003), the governor's notice before May 1, 2003, to the federal Administrator of General Services that the state of Indiana intends to use payments under Section 101 of HAVA (42 U.S.C. 15301) in accordance with Section 101 of HAVA is legalized.

(c) Notwithstanding P.L.209-2003, SECTION 213 (expired December 31, 2003), the governor's notice before May 1, 2003, to the federal Administrator of General Services under Section 102(b) of HAVA (42 U.S.C. 15302) in accordance with Section 102 of HAVA is legalized.

(d) Notwithstanding P.L.209-2003, SECTION 216 (expired December 31, 2003), not later than July 1, 2004, the secretary of state, with the consent of the co-directors of the election division, shall file a statement with the federal Election Assistance Commission certifying that the state is in compliance with the requirements referred to in Section 253(b) of HAVA (42 U.S.C. 15403). The statement must be in the form authorized by Section 253 of HAVA.

(e) This SECTION expires July 1, 2005.

SECTION 202. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: (a) This SECTION applies to an individual:

- (1) who was elected during November 2003 to an office of a political subdivision; and
- (2) to whom IC 5-4-1-1.2 applies.

(b) Notwithstanding the time limits under IC 5-4-1-1.2(c), an individual's deposit before March 1, 2004, of the oath required by IC 5-4-1-1 with the office listed in IC 5-4-1-4 is legalized, and IC 5-4-1-1.2(d) does not apply.

(c) This SECTION expires July 1, 2004.

SECTION 203. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 3-11.7-1-6, as amended by this act, all provisional ballots other than those described in IC 3-11.7-1-5 shall be prepared and printed

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under the direction of each county election board.

(b) This SECTION expires December 1, 2004.

SECTION 204. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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